COPY

PETITION NOT PRINTED

VOLUME I

TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1960

No. 161

ARTHUR CULOMBE, PETITIONER

vs.

CONNECTICUT

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF ERRORS OF THE STATE OF CONNECTICUT

PETITION FOR CERTIORARI FILED MAY 12, 1960

CERTIORARI GRANTED JUNE 20, 1960

State of Connecticut

Supreme Court of Errors

HARTFORD COUNTY

OCTOBER TERM, 1958

4717

STATE OF CONNECTICUT

vs.

JOSEPH L. TABORSKY

and

ARTHUR CULOMBE

JOINT APPENDIX OF APPELLANTS AND APPELLEE

VOLUME 1 OF 3

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MAY 8, 1957 - 12:00 P.M.

CATHERINE M. HEALEY, having been previously duly sworn, was examined and testified as follows:

BY THE COURT:

Q. Come right up here and sit down, if you will. Now, Mrs. Healey, how long have you lived in West Hartford? A. Fifteen years.

Q. I hear you all right, but I want all these gentlemen to hear you too. Where did you live before you lived in West Hartford? A. In Hartford.

Q. Are you married, Mrs. Healey? A. No, I am not.

Q. Then it's Miss Healey? A. Yes.

Q. I am sorry. Have you had any prior jury service? A. No. Grand Jury, but not trial.

Q. Where was the Grand Jury service? A. Right here.

Q. In Hartford? A. Yes.

Q. How long ago was that? A. Last year.

Q. Do you remember the name of the case? A. They were the two that were tried on the last one - that murder on State Street.

Q. Do you remember the name? The facts won't help me to remember the name of the case or fix the time. A. I can't - I have gone blank.

Q. Is there or was there anything in that experience that would prevent you from bringing in a fair verdict if you were selected for the jury in this case - based entirely on the evidence you would hear here and the instruction of the Court? A. I don't think so.

Q. What is your occupation, Miss Healey? A. I am retired.

Q. And before you retired? A. I was a bookkeeper at Travelers.

Q. In what department? A. Roll taker.

Q. Have you ever been involved in a criminal proceeding, either as a complainant, or an accused or as a witness or otherwise, other than for a traffic violation - other than the Grand Jury proceedings you spoke of?
A. No.

Q. Or any member of your family so far as you know? A. No.

Q. Now, Miss Healey, the law of our state provides that in a case of this kind and in others, but we are only concerned with this one now, that the jury determines what the facts are from the evidence that is presented here in court and under the law as it is given by the Court, but it is the duty of the jurors and it will be your duty if you are selected as a juror, to take the law governing this case from the Court. Would you have any hesitation in doing that? A. I don't think so, no.

MR. BURKE: May I have that answer?

(The Reporter read the answer)

THE WITNESS: I said no.

THE COURT: I don't mean to insinuate that Mr. Burke's hearing is worse than ours, but speak up so he can hear you.

Q. If I were to charge you that the law of this state was that these accused are presumed to be innocent as they stand here for trial of the crime with which they are charged unless and until the State proves beyond a reasonable doubt their guilt, would you be able to follow

those instructions if you were selected as a juror?
A. I don't think I understand.

Q. If you were selected as a juror, and I were to tell you that one of the rules of law governing this case was that these accused are presumed to be innocent of the crime with which they are charged until the State has proved them guilty beyond a reasonable doubt, would you have any hesitation in following that charge? A. No.

Q. You realize, of course, or do you, that that would involve wiping out of your mind or taking into consideration, at least, anything that you might have read or heard or seen on the television or radio with reference to these accused or these cases, and judging them entirely upon the evidence presented here and under the law as I should give it to you. Do you understand that?
A. Yes.

Q. If I should so charge you that if you had any opinion or impression that these accused were not under any burden of producing any evidence to prove them not guilty, but that the State had the burden all through the trial of proving them guilty, would you have any hesitation in following those instructions? A. No.

Q. If I were to charge you that in the event police officers were offered as witnesses on the witness stand in this case, as they probably will be, that the jury, and you as a member of the jury, should test their credibility and determine what weight to give their testimony by the same standards as you would judge the credibility of anyone else, and determine the weight given to the evidence of any body else, would you follow those instructions? A. I would.

Q. Now, if I were to instruct you, as I will, if you are selected as a member of this jury, that the law of our State requires that you should not allow sympathy for these accused or their relatives or for the deceased or any

of their relatives in any way to influence you in arriving at your verdict, would you follow that instruction? A. I would.

Q. If I were to tell you further that prejudice or bias against these accused or the State should not in any way influence you in arriving at your verdict, would you follow those instructions? A. Yes.

THE COURT: Very well.

CROSS EXAMINATION BY MR. BILL

Q. Miss Healey, do you believe in capital punishment? A. Yes, I do.

MR. BILL: That is all.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. Miss Healey, have you looked at or listened to radio or television broadcasts about this case? A. Well, I have listened to some, yes.

Q. Have you been influenced at all by those broadcasts in so far as forming an opinion? A. I don't think so.

Q. Have you an opinion as to the guilt or innocence of these accused? A. Well, outside of their confession.

Q. Well, because you read of their confession? A. Yes.

Q. Because of their confession have you an opinion as to their guilt or innocence? A. Well, of course, I have not heard any of the testimony, but if they confessed that would be the only reason I would say that.

Q. If the Court instructs the jury and you might be a member of the jury that it was not a true confession if it was obtained by force or promises or duress and that it should be rejected by the jury, will you follow the

Court's instructions in considering evidence of force, promises or duress? A. I would, yes.

Q. Now, was that a murder case that you sat on the Grand Jury on? A. Yes, and my mind has gone blank on it.

Q. That isn't important, but that was in Hartford County? A. Yes.

Q. In the Superior Court? A. Yes.

Q. You never had sat on a trial jury? A. No.

Q. The deceased in this case are Edward Kurpiewski, of New Britain, and Daniel J. Janowski of New Britain. Do you know either one of those men? A. No.

Q. Or any of their families? A. No.

Q. Are you acquainted with any of the attorneys in this case? A. No, I am not.

Q. Do you know whether or not you are acquainted with any members of their families? A. No, I am not.

Q. Have you listened or joined in any discussion about this case? A. No, not to amount to anything.

Q. Whatever you have listened to or heard, have you heard people express an opinion as to the guilt or innocence of these accused? A. Yes, I have.

Q. Has that expression of opinion formed an opinion in you? A. Well, as I said before, the only opinion I have is the confession.

Q. That is the only opinion? A. Yes.

Q. And if that was removed, there would be nothing you could base an opinion upon, is that correct? A. That is right.

Q. If you reached a verdict in this case and all the evidence was closed and the Court had instructed the

jury as to the law and you had all the evidence, and on the evidence and on the law as given by the Court, you had reached a conclusion, would you stand by that conclusion even though eleven others were against you, unless they could show you by reason that you were wrong?
A. Yes, I would.

Q. Even though you stood one against eleven, until you were shown otherwise, you would remain on your stand on that verdict? A. Yes.

Q. Are you acquainted with any members of the New Britain Police Department or the State Police Department? A. No.

Q. Have you any relatives - close relatives who are members of either Department? A. No.

Q. I think His Honor inquired of you as to whether or not you would give a Police Officer any more or less credence than that of other witnesses according to our standards of the weight to be given their testimony. Could you do that? A. I would try and be fair.

Q. You would have a standard that would apply to all witnesses, police officers and laymen? A. Yes.

Q. Have you followed this case to any extent, or has it just been another news item? A. Well, I think that would be more like it - it was just a startling news item. I have not followed it closely.

Q. Because of the nature of this case or what you have read and heard about it, has it become so fixed in your mind that you feel that you might have some revulsion against these defendants that would continue with you during the trial of this case, or have you an open mind?
A. Well, I have an open mind.

Q. Your health is well, I hope? A. Yes.

Q. There is nothing to interfere with your serving for three or four weeks on this jury if you are accepted?
A. No, I don't think so.

Q. It may take you that long. There will be no personal inconvenience that would affect your serving?
A. That's right.

Q. How long were you with Travelers? A. Thirty-seven years.

Q. Now, His Honor will instruct the jury as to the law which has to be applied to the facts, and the facts will come from the witness stand. Will you disregard any notion you might presently have as to what the law should be and take the Court's instructions and apply them to the facts? A. Yes.

Q. You have never served on a trial jury?
A. Never

Q. And if His Honor instructs the jury that each of these defendants is presumed to be innocent until proven guilty beyond a reasonable doubt, would you take your place in the jury box with the assumption that they are innocent men until the State has proven them guilty beyond a reasonable doubt? A. Yes.

Q. Now, this case is known as the State of Connecticut against Arthur Culombe and Joseph Taborsky. That is the title of the case. Now, in the English jurisdiction they call it the Crown, and in the United States jurisdiction it is the United States vs. so and so. I will read a bit of philosophy to you concerning a judgment in a criminal case, and I will ask you, if the Court allows you, to tell me whether or not you approve of it:

"The philosophy that prevails in English jurisprudence, namely, that the Crown never wins and the Crown never loses in a criminal case is the true philosophy of criminal justice. When the liberty of an Englishmen is preserved,

the Crown wins, and the philosophy should be applicable to our American criminal courts, for the government never really wins or loses a case. It is just as important to the government to preserve the liberty of the innocent as it is to convict the guilty." Do you agree with that philosophy? A. Yes, I do.

MR. McDONOUGH: That is all.

CROSS EXAMINATION BY MR. BURKE:

Q. Miss Healey, you say that since you read about the confession in this case you have had an opinion of guilt? A. Yes.

Q. Is that a fixed opinion? A. Well, if I could be shown, as the other attorney said, that it was forced - that the confession was forced, it wouldn't be justified.

Q. But as you sit here today, knowing what you do, or having read about this confession, you have an opinion as to their guilt? A. Yes.

Q. And now, Miss Healey, would you expect these defendants to produce evidence for you to disabuse your mind of that opinion? A. Yes.

Q. So that you will expect them to show you that they are not guilty? A. Right.

Q. And if you left the chair you are now in and came into the jury box, you would carry with you that opinion of guilt and expect the defendants to take it from your mind by some evidence that they were not guilty?
A. That is right.

Q. Now, as to policemen, Miss Healey, would you give more weight to the testimony of a police officer or official of the State Police Department than you would to that of an ordinary citizen? A. Well, I don't think so. They would all be under oath to tell the truth.

Q. And you would feel then that any witness, police as well as the ordinary witness, would be charged with the same standards as to whether they were telling the truth or not telling the truth? A. That is right.

Q. That is how you would charge them as a fair juror? A. Yes.

Q. You believe in our jury system, don't you?
A. Yes, I do.

Q. And you would want it upheld in this case?
A. Yes.

Q. And you would expect these men to be entitled to a trial by a fair and impartial jury? A. I would.

Q. In other words, having this opinion of guilt on the part of these men, which you say would take evidence on their part to take from your mind. I think that is all.

MR. BURKE: I would ask the lady be excused.

THE COURT: I will deny the motion.

EXAMINATION BY MR. BILL:

Q. In connection with the question Mr. McDonough asked you, if you were on the jury and came to the time of deliberations with respect to the guilt or innocence of the accused, in answer to his question, you said if you had a decided opinion one way or the other and eleven were against you, you would still stick to your opinion. However, before you ever reached that you would listen to reason from the others? A. Oh, yes.

Q. And you would debate it back and forth?
A. Yes.

Q. And it would be only after an exhaustive debate that you would be completely satisfied you were right

before you would ever take a position like that on one against eleven? A. That is correct.

MR. BILL: That is all.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. Miss Healey, the Court will instruct you that the verdict can be, among others, murder in the first degree, the penalty for which is death in the electric chair; and you will also be instructed that the jury, that it can find the defendant or defendants guilty of murder in the first degree and the jury can recommend mercy, which means imprisonment for life without parole; or murder in the second degree, which means imprisonment for life and parole is possible after twenty-five years; and then I believe there may or may not be a charge as to manslaughter, which carries a lesser penalty. If the evidence received by the jury and other the instructions of the Court is such that it would affect the consideration of a verdict recommending mercy, would you consider such evidence and such a recommendation of mercy? A. Yes.

Q. Now, if the defendant, Culombe, who sits there, introduces evidence with the permission of the Court showing that at the time of the crime he had not the mind and capacity to reason and the understanding to enable him to judge of a nature, character and consequences of the fact, would you take such evidence into consideration in rendering a verdict as to mercy or otherwise in this case? A. Yes.

MR. BILL: Objection.

THE COURT: What is the objection?

MR. BILL: There was no part of the question containing the instructions of the Court.

THE COURT: I thought it did contain that.

MR. BILL: He said with the permission of the Court.

THE COURT: Under the instructions of the Court?

THE WITNESS: Yes.

Q. You would, Miss Healey? A. Yes.

MR. McDONOUGH: Thank you.

MR. BILL: Accepted by the State.

MR. McDONOUGH: Accepted by Mr. Culombe.

MR. BURKE: Excused by Taborsky.

THE COURT: You are excused, Miss Healy, but I have to tell you, and I do, that you are not at liberty to communicate or talk with anyone, or discuss with anyone the questions that were asked of you here or the answers which you gave about this until a jury is finally selected and the evidence starts, and you may do so then if you like.

MR. BURKE: I failed to take an exception to Your Honor's ruling for cause.

MAY 8, 1957 - 4:12 P.M.

GEORGE W. HANNON

EXAMINATION BY THE COURT:

Q. Sit down, Mr. Hannon, Will you tell us first how long you have lived in East Hartford? A. About twenty years.

Q. Are you married? A. I am.

Q. And how many in your family? — Question withdrawn. Do you have a family? A I have four children.

Q. And how old are they? A. Well, I have one thirty-three, one twenty-nine, one twenty-four, and one twelve.

Q. Let's start with the one that's thirty-three. Boy or girl? A. Girl.

Q. And is she married? A. She is.

Q. What does her husband do? A. He works as an I.B.M. man for the Two-Hartfords.

Q. The next is twenty-nine. A. Married.

Q. Man or woman? A. A girl.

Q. What does her husband do? A. He's a fireman. Works for the Town of East Hartford.

Q. The next one? A. The next one is a boy, married. He works for me. Insurance man.

Q. And the one twelve, of course, is in school?
A. In school.

Q. Have you ever had any prior jury service?
A. None.

Q. Now, you have already indicated, but what is your occupation? A. I am an insurance and real estate agent.

Q. For whom? A. I work for myself. I have my own agency.

Q. And your son is employed as a salesman by you?
A. Yes, sir.

Q. Have you ever — Question withdrawn. Your wife has no other occupation than as a housewife?
A. She's an insurance agent in partnership with me.

Q. So that your family at home works in the insurance business with you? A. That's right, Your Honor.

Q. Have you ever been involved in a criminal prosecution either as a complainant or an accused or a witness or otherwise, other than a traffic violation? A. None, Your Honor.

Q. Or any member of your family, so far as you know? A. None, Your Honor.

Q. The law of this state is that the jury determines, from the evidence presented here in Court, what the facts are, but the jury is under an obligation and must take the law governing the case from the Court. If you were selected as a juror and I instructed you that is the law, would you have any hesitation in taking the law from the Court? A. As I understand it, no, Your Honor.

Q. Let's make sure you understand it. The facts are determined from the evidence, by the jury. The law governing the case is stated to the jury in the Judge's charge at the end of the case and that is the law that the jury must take and apply to the facts as they find them. If I instructed you that was our law would you have any hesitation in following it? A. I would not.

Q. If I were to tell you further that our law is that these two accused are presumed to be innocent, as they stand here before you, of the crime with which they are charged, until and unless the State proves them guilty beyond a reasonable doubt, would you have any hesitation in following that instruction? A. I would not.

Q. If I were to tell you that that presumption of innocence required that as a juror, if you were selected as a juror, you would have to eliminate from your consideration anything that you may have read about this case or about them, or heard about them or the case either on the radio or in discussions with others, or seen on television, and that you would have to start this case with the presumption that they are absolutely innocent until and unless the State proved them guilty beyond a reasonable doubt, would you follow that instruction?
A. I would.

Q. If I were to tell you further that under our law the accused are under no obligation, either now or at any time during the trial, to produce any evidence to prove that they are not guilty, but that the State has the burden

of proving that they are guilty, you would have no hesitation in following that charge? A. I would not.

Q. If I were to tell you that if police officers are offered as witnesses in this case — and in all probability there will be — and that if you are a juror, that you would under our law have to test their credibility and determine what weight you would give to their testimony, if any, by the same standards as you would test the credibility of any other witness and determine what weight you would give to other witnesses' testimony, would you follow that instruction? A. Your Honor, would you please rephrase that again?

Q. Let me say it plainly. Would you treat police officers, as witnesses, in the same category you would treat any other witnesses that appeared on the stand?
A. I would, Your Honor.

Q. Would you determine his credibility or their credibility by the same standards as you would test the credibility of any other witnesses? A. On the same standards, Your Honor?

Q. Yes. A. Yes.

Q. And you would not give them any more — Question withdrawn. If I were to further tell you that the law of the state was that if you were selected as a juror you must not allow sympathy for these accused or their relatives, or the deceased or their relatives, to in any way influence you in arriving at your verdict, would you follow that instruction? A. I would.

Q. If I told you the prejudice and bias for or against the accused or the State was to play no part in your verdict, would you follow that instruction? A. I would.

THE COURT: Mr. McDonough, you're next.

EXAMINATION BY MR. McDONOUGH:

Q. Mr. Hannon, how long have you had your own insurance business? A. About sixteen years.

Q. Have you ever held public office? A. I have.

Q. And what office? A. I have been the Town Treasurer of the town that I live in; State Representative representing the town that I live in.

Q. I think you said you haven't had prior jury service? A. That's correct.

Q. Have you any immediate relative connected with any police department? A. No police department.

Q. Have you ever had any connection, such as being a police commissioner or in any form at all, a connection with a police department? A. I have not.

Q. Mr. Hannon, the Court will instruct you that the jury, on the evidence, if it warrants it, may return a verdict of guilty of murder in the first degree, which is punishable by death. Have you any opposition to capital punishment if the evidence warrants such a verdict? Have you such opposition or any opposition that would cause you to hesitate in returning such a verdict? A. I have no opposition to capital punishment.

Q. The law of this state provides that a jury may bring in a verdict of guilty of murder in the first degree, and recommend mercy. If the evidence in this case that is admitted is such as to show, in so far as either one of these defendants is concerned, especially Culombe, who sits here and who I represent, is mentally dificient, would you consider that evidence under the instructions of the Court in reaching a verdict of first degree, with mercy? Would you consider Culombe's mental instability if the evidence, under the Court's instructions, warranted it?

A. I would.

Q. His Honor may instruct the jury, Mr. Hannon, that the defendant or defendants, to be guilty of murder in the first degree, at the time of the commission of the crime had the mind, capacity, reason and understanding enough to enable them to judge of the nature, character and consequences of the act charged against them, that the act was wrong and criminal, and that the commission of it would properly and justly expose them to penalty. If the evidence showed that these defendants came under what I just read to you, and did commit the crime, would you vote accordingly on a verdict —

MR. BILL: Objection.

Q. — of murder in the first degree.

THE COURT: I'll sustain the objection.

Q. If, Mr. Hannon, evidence was submitted to you as a member of the jury that Culombe, at the time of the commission of the crime, did not have the mind or the capacity, or the reason and understanding to enable him to judge of the nature and character of his acts, would you consider that evidence in determining the verdict that you would render against him? A. I would.

Q. And if it convinced you that the State had not produced sufficient evidence to show that he was sane — Culombe — would you consider that evidence and lack of evidence by the State in rendering your verdict?

A. Would you please repeat that?

Q. I'll withdraw it. The Court will charge you that if the sanity of the defendant, Culombe, is raised, evidence is put in that he is not mentally and capably sound, that the duty and burden is on the State to show that he was sane at the time of the commission of the crime — if the Court so charges you will you follow the Court's instructions? A. I will.

MR. BILL: Objection.

MR. McDONOUGH: I claim it.

THE COURT: I'll allow it.

MR. BILL: That isn't what the Court would instruct.

THE COURT: I know. I understand.

Q. You would? A. I would follow the Court's instrution.
tion.

MR. BILL: I object, Your Honor, because it seems to me that he is indicating to the juryman that the State in any event would have to go ahead with some evidence as to sanity, and that isn't true. There is a presumption of sanity, and he should put his question that if the Defense raises it, then it —

MR. McDONOUGH: Just because the State's Attorney doesn't understand it, Your Honor, doesn't mean the witness doesn't.

MR. BILL: I understood it.

THE COURT: I think now that the controversy is over and you gentlemen have exchanged pleasantries, continue with your examination.

MR. McDONOUGH: That's all, Your Honor.

MR. BILL: Exception, Your Honor?

THE COURT: Certainly. Mr. Burke.

EXAMINATION BY MR. BURKE:

Q. Mr. Hannon, you have read a lot about this case in the newspapers, haven't you? A. I think I can say "No" to that.

Q. You haven't read much about it in the papers?
A. That's correct, Attorney Burke.

Q. And you haven't — Have you listened to newscasts on television or radio about it? A. I was out of the state when this case broke; and if I may, Your Honor, in answering your question, I am not interested in reading somebody else's misfortune.

Q. Do you or do you not have any opinion as to the guilt or innocence of these men? A. I have no opinion as to the guilt or the innocence of these men at this time.

Q. So that as far as you are concerned you can sit in the jury box with the presumption that they are innocent? A. That's correct.

Q. And you will come to your decision as to their guilt or innocence based upon testimony you hear in this Court? A. That's correct.

Q. And not be influenced by any stories or information that might be voiced upon you from outside sources? A. That's correct.

Q. Mr. Hannon, you believe in the jury system, don't you? A. I do.

Q. And you believe a man should be tried by a jury of fair and impartial people? A. If he chooses that.

Q. You have no preconceived notions of his guilt? A. That's correct.

Q. And if you sat as a juryman you would follow out that belief, would you not? A. That's right.

Q. Do you have any relatives or close friends who are members of any type or kind of law enforcement agency? A. None; unless you consider the fire department.

Q. No. I mean like police, or F.B.I., or Treasury agents, or something like that? A. None.

Q. Not just policemen, but any law enforcement agency. And you say that you were a State Representative? A. I was.

Q. But you hold no public office now? A. That is correct.

MR. BURKE: I think that's all.

THE COURT: Mr. Bill?

EXAMINATION BY MR. BILL:

Q. I think you said that you believed in capital punishment, didn't you? A. I did.

Q. And you have no hesitation about that? A. I have none.

Q. And you would go into the jury box with a free mind as to whether either one or both of these men had any mental condition, mental illness? You'd go in there on the presumption that they were sane, until some evidence was brought forward, would you not? A. I think that's correct.

Q. And you would follow the instructions of the Court as to the rules concerning your position as to whether they had adequate mental condition or not? A. I would.

MR. BILL: That's all.

THE COURT: Mr. McDonough?

EXAMINATION BY MR. McDONOUGH:

Q. Mr. Hannon, one more question: Will your business situation be such, or is it such, that being detained here for a period of, say, about a month would cause you any great inconvenience? A. I believe that the business situation can get along all right without me.

Q. I'll read this philosophy to you and ask you if you

agree with it. In Connecticut we know the case as the State vs. So and So. This is the State vs. Joseph Taborsky and Arthur Columbe. In the United States Courts it is the United States Government vs. So and So. In England it is the Crown. I call this to your attention:

"The philosophy that prevails in English jurisprudence, namely, that the Crown never wins and the Crown never loses in a criminal case, is the true philosophy of criminal justice. When the liberty of an Englishman is preserved, the Crown wins, and that philosophy should be applicable to our American criminal courts, for the Government never really wins or loses a case. It is just as important to the Government to preserve the liberty of an innocent defendant as it is to convict the guilty." Do you agree with that?

A. I do.

MR. McDONOUGH: That's all. Thank you.

THE COURT: Mr. McDonough, you're first.

MR. McDONOUGH: Mr. Hannon is accepted by Culombe.

THE COURT: Mr. Burke?

MR. BURKE: Mr. Hannon is accepted by Taborsky.

MR. BILL: Accepted by the State.

THE COURT: You may go to the jury room, Mr. Hannon. You are number two.

MR. BILL: Your Honor, could counsel see you at the bench?

THE COURT: Yes; surely.

(Conference at bench.)

MAY 10, 1957. 11.10 A.M.

CHARLES H. STOCKS

BY THE COURT:

Q. Sit right down. First of all, will you tell us how long you have lived in West Hartford? A. I have lived in West Hartford twenty years.

Q. And Mr. Stocks, will you keep your voice up so they can all hear you. I hear you perfectly, and it is natural for you to direct your voice to the person that is asking you questions, but I want these gentlemen to hear you, too. You have lived in West Hartford for thirty years?

A. Twenty years.

Q. Before that where did you live? A. In Hartford.

Q. Are you married? A. Yes, I am.

Q. Do you have a family? A. Yes.

Q. And how many? A. Three children.

Q. How old are they, Mr. Stocks? A. Thirty-seven, forty-five and fifty.

Q. Let's start with the one that's fifty. What does he or she do? A. She's a housewife.

Q. What does her husband do? A. He works for Montgomery-Ward as a service manager.

Q. Where is he located? What town? A. He lives in Wethersfield.

Q. The next one? A. A son.

Q. What does he do? A. He's a globe trotter.

Q. You don't know where he is at the moment?

A. He's in Miami, the last I knew.

Q. The youngest? A. She's a housewife.

Q. What does her husband do? A. Traveling salesman.

Q. For whom? A. Some company in New York. I don't recall the name.

Q. Have you ever had any prior jury service?
A. Yes, I have.

Q. Where and when? A. Here in this room, and in the civil courtroom in 1954.

Q. Have you sat on criminal cases? A Yes, I have.

Q. When was the last one? A. That was in the spring term, 1954.

Q. Now, what is your occupation? A. Retired.

Q. And before you retired? A. Worked in a dress factory.

Q. Where? A. On Capitol Avenue.

Q. Does your wife have any other occupation than as a housewife? A. No, she doesn't.

Q. Have you ever been involved in a criminal prosecution? A. No, sir.

Q. In any way? A. Not in any way.

Q. Or any member of your family, so far as you know?
A. Not as I know of.

Q. From your previous service you know that the jury's function is to find the facts on the evidence presented in Court, do you not? A. Yes, sir.

Q. And you also know, do you not, that the jury must accept the low covering the case, from the Court?
A. Yes, sir.

Q. You would have no hesitation in doing that?
A. That's right.

Q. I take it that perhaps you also know that in this state the law is that these two accused are presumed to be innocent of any crime, including the crime with which they are charged, until and unless the State proves by evidence that they are guilty beyond a reasonable doubt?

A. Yes, sir.

Q. You would follow that instruction?

A. Certainly would.

Q. Do you realize that that presumption of innocence includes the fact that you would have to eliminate from your consideration as a juror, if you are selected as a juror, anything that you might have read about these men or this case, or heard on the radio or in general discussion, or seen on television? A. Yes, sir.

Q. Would you so do? A. I certainly would

Q. If I were to tell you something which you perhaps already know, that the law of this State is that these accused are not now, nor at any time during the trial will they be, under any duty to produce any evidence to prove that they are not guilty, but that the State has the burden of proving them guilty beyond a reasonable doubt, will you follow such instruction? A. Yes, sir.

Q. If police officers are offered as witnesses here the jury is to test their credibility and determine what amount of weight they will give to their testimony, if any by the same standards as they would test the credibility of any other witness that is put on this witness stand. Would you follow that instruction? A. Yes, sir.

Q. If I told you that the law of the State of Connecticut was, and it is, that in arriving at your verdict, should you be a juror on this case, you would have to eliminate from your consideration any sympathy for these accused or their relatives, or for the deceased or their relatives —

A. Yes, sir.

Q. — would you follow such instruction? A. Yes, I would.

Q. If I told you that prejudice and bias must play no part in arriving at your determination of the final verdict, would you follow that instruction? A. Yes, I would.

THE COURT: Mr. Bill, it's your turn.

EXAMINATION BY MR. BILL:

Q. Mr. Stocks, do you believe in capital punishment?
A. Yes, I do.

Q. You are a voter in West Hartford, are you?
A. Yes, sir.

MR. BILL: Thank you.

THE COURT: MR. McDONOUGH:

EXAMINATION BY MR. McDONOUGH:

Q. How many criminal case have you sat on, Mr. Stocks? A. Just one.

Q. What was the nature of the charge in that case?
A. It was a shooting affray in which a man shot his wife.

Q. Was it a murder case or an aggravated assault?
A. Aggravated assault.

Q. What was the verdict of the jury? A. Guilty.

Q. And that was in 1954? A. Yes.

Q. Did you serve on any other criminal cases?
A. No.

Q. Who was the prosecuting attorney or State's Attorney in that case? Mr. Bill? A. Mr. Bill.

Q. Have you sat on any case where Mr. Burke or myself have been attorneys? A. No, I haven't.

Q. You haven't had any professional relations with any of the attorneys in this case, have you? A. No, sir.

Q. Have you any immediate relative that has been recently or now owns a store, a small store or a gasoline service station? A. No, sir.

Q. Have you ever been the victim of a criminal act by being robbed or your home being broken into?
A. No, sir.

Q. Your health is good, I assume? A. Yes, sir.

Q. Your hearing is good? A. Yes.

Q. Have you any prejudice or feeling against a defense that would be offered or insanity or a mental condition? A. None whatever.

Q. If, under the instructions of the Court, evidence was admitted showing that Culombe, who sits here is deficient mentally, would you consider such evidence?
A. Yes, sir.

Q. And if the Court instructs the jury that even though Culombe is found guilty of murder in the first degree, that it could consider evidence of his mentality on a possible verdict of a recommendation of mercy with first degree, would you consider that? A. Yes, sir.

MR. BILL: Objection.

THE COURT: He's answered it. It should have included —

MR. McDONOUGH: The phrasing could have been changed, Your Honor. It would have been changed.

MR. BILL: I don't know that the Court is going to make such a charge.

MR. McDONOUGH: Do you want me to reframe it?

THE COURT: No. You asked the question. All this inquiry is for is so you can get information. I'll allow it. I think I would have sustained it. Mr. McDonough said he was willing to reframe it.

Q. Have you read in the newspapers of the crime that these men are charged with, Mr. Stock?

A. Very little. Just headlines. I don't buy any newspaper so I don't get much information that way.

Q. Do you read the newspapers? A. Very seldom.

Q. Do you listen to radio? A. Very little. I go to sleep by it.

Q. Do you watch television? A. I haven't any.

Q. Have you heard people discussing the holdups and murders that Taborsky and Culombe are charged with?

A. No, I haven't.

Q. Do you belong to social groups? Fraternal organizations? A. None at all.

Q. So you don't attend club meetings? A. No.

Q. How about luncheon meetings? A. I don't attend any of them.

Q. Do you associate with groups of people where discussions of public events take place? A. No; I have no social life at all. Just go to church and live home.

Q. You are not opposed to capital punishment?

A. No.

Q. Are you opposed to the abolishment of capital punishment? A. If the law says so I'll go along with the law.

Q. There was a bill before the Legislature to abolish capital punishment. Were you in favor or opposed to such legislation? A. At the time it was brought up I was opposed to it.

Q. So you are definitely in favor of capital punishment? A. Yes, I am.

Q. But you have no opposition to our law of first degree murder with a recommendation for mercy if the jury sees fit? A. No, I haven't.

Q. Have you any close relatives members of any police department? A. Just my son — the husband of my oldest daughter is an auxiliary policeman in Wethersfield.

Q. Are you acquainted in New Britain? A. Yes, I have some relatives in New Britain.

Q. Do you know of — Question withdrawn. Do you know an Edward Kurpiewski, who is one of the deceased in this case? A. No, I do not.

Q. Or a Daniel Janowski? A. No, I did not.

Q. Have you talked with your relatives in New Britain about this murder case? A. No, I never have discussed it with any of them.

Q. Do you know of any reason at all why you couldn't serve on this jury and fairly and impartially and under the Court's instructions decide the issues in this case? A. No, I do not.

MR. McDONOUGH: That's all.

THE COURT: Mr. Burke?

EXAMINATION BY MR. BURKE:

Q. Mr. Stocks, how long have you been retired? A. Well, in the last ten years I have worked periodically. Since I was sixty-five, practically.

Q. You have been retired about ten years? A. Yes.

Q. Your health is good? A. Yes, it is.

Q. Now, Mr. Stocks, what newspaper do you subscribe to? A. I don't subscribe to any. Occasionally, very seldom, I buy a Hartford Courant or Hartford Times.

Q. And you don't follow the news of the day, or current events? A. No, I do not.

Q. You have no interest in that? A. No.

Q. And you say you have no television? A. I have no television.

Q. Do you have a radio? A. Yes.

Q. Do you listen to the radio? A. Very seldom.

Q. Do you listen to radio news broadcasts? A. Yes; I take that in.

Q. Have you heard radio news commentators about this case? A. Occasionally. I hear about juries being accepted.

Q. I mean prior to that. I mean at the time these alleged crimes were being committed?

A. Yes. I read — I listened to that. I heard that on the news program.

Q. Did you also hear on the radio about alleged confessions having been obtained? A. Yes, I think I did hear that sometime ago.

Q. Having heard that on the radio, Mr. Stocks, didn't it have some impact on your opinion?

A. Not at all. No. My opinion has always been — My conclusions, if I sat on the jury, would be based strictly on the evidence presented in the Courtroom, so I'd never allow any newspaper comment to sway me one way or the other.

Q. Despite that, from listening to the radio about these two men, didn't you get some impact of it as to the guilt or innocence of them?

A. Well, I suppose like anybody else you are a little inclined to lean towards what the newspaper says on —

Q. Would you stop there, Mr. Stocks? You say that you are inclined to lean on what the newspaper says. But you don't read the newspaper very much?

A. Very, very little.

Q. And from the little you did read you did obtain a leaning of opinion? A. It soon went out of my mind.

Q. I am asking you about when you had it. A. At the time.

Q. And that opinion as to guilt or innocence was what? A. I think that they should be brought to trial and have their privilege of expressing their views, and their trial should be conducted in a way that would make me decide whether they are guilty or not guilty.

Q. I agree with you, Mr. Stocks. But what I am getting at is the question I just asked you, When you listened to the radio and read in the newspapers, as you said, you have leanings of opinion. I want to know were the leanings towards guilt or innocence? A. Well, it wasn't either, to tell you the truth. I wasn't inclined in either way to make up my mind.

Q. So you didn't lean at all? A. Well, not towards — not towards the fact that they were guilty until I knew more about it. I wanted more evidence; more proof.

Q. So what you heard about the confessions, from news commentator or read in the newspaper, it didn't lean your opinion to guilty or innocent? A. I made up my mind at the time that I wasn't going to be — To start with, I expected to be called on the jury again most any time, because my application was in, and I made up my mind I wasn't going to be swayed one way or the other until I got into the Courtroom.

Q. Could we say, Mr. Stocks, that you were preparing to be a juryman in the event you were called?
A. Yes.

Q. So that you were keeping deliberately an open mind in this matter? A. I certainly was. Yes, indeed.

Q. That's about the way it was? You had an application in to be a juryman and you felt if you were called you wanted to have an open and impartial mind? A. I certainly did.

Q. Would you like to serve on this jury? A. Yes, I would.

Q. You stated that one of your — Is it a grandson, an auxiliary policeman? A. The husband of my oldest daughter is an auxiliary policeman.

Q. Your son-in-law? A. Yes.

Q. Do you see him frequently? A. Not ver much; no.

Q. Do you visit him at all? A. Oh, yes; occasionally.

Q. When you do, do you discuss police work?
A. No. It never was brought up. As a matter of fact, he had been an auxiliary policeman about two years before I even knew it.

Q. So most of your activity is taken up with personal matters? A. That's right.

Q. And you say you don't belong to any clubs?
A. No.

Q. And that your activity in that regard is to go to church and come home? A. That's all we do.

Q. Are you one of those people, like I am, who like to visit with their neighbors in front of the church?

A. My wife does that. She takes care of that end of it.

Q. You just stand and wait? A. I just go out in the car and stay there and blow the horn.

Q. So that you don't have any opportunity to discuss the events of the day with your neighbors at that particular congregation? A. No, I do not.

Q. Mr. Stocks, have you ever been the victim of any violence, robbery, holdup, breaking and entering, anything like that? A. Never have.

Q. How about any members of your immediate family A. None that I know of. I see my relatives very little.

Q. You sort of keep to yourself? A. I've lived where I am now for eighteen years and I don't know my next door neighbor's name.

THE COURT: Sheriff, we'll have to have order.

Q. Mr. Stocks, in this case there will be probably evidence that one or either of these defendants suffers from a mental disease, a mental illness or a mental incapacity to such an extent that he could not form the proper intent for first degree murder. Under the instructions of the Court and having heard these facts, will you give consideration to them in arriving at your verdict?
A. Yes, sir.

Q. You also know, don't you, Mr. Stocks, that the penalty for first degree murder in this state is death by the electric chair? A. Yes, sir.

Q. Do you believe that society has a right to kill its citizens? A. If it's the law I go along with it.

Q. I am not talking about the law. The law is the law. I am asking how you feel. What is your opinion?

A. Then I am of the opinion that it is punishable by death.

Q. You think, then, society has a right to kill its citizens? A. Yes, I do.

Q. In a proper case, of course? A. Yes, I do.

Q. And if the law so prescribes? A. Yes.

Q. In this particular case, Mr. Stocks, under the proper facts and evidence produced for you and under the instructions of the Court, would you refuse to consider in your verdict murder in the first degree with a recommendation of mercy? A. No, I wouldn't refuse that.

Q. If in a proper case you felt that it warranted it, you would consider it? A. Yes, sir; I would.

Q. In other words, Mr. Stocks, you are prepared to sit here as a fair and impartial juror and decide this case on what you hear in this room? A. Yes, indeed.

Q. You are not going to be influenced by any newspaper talk, barber shop gossip, or any other outside influences? A. No, sir.

Q. And you are not going to permit any emotional feeling to sway you one way or another? A. No, sir.

MR. BURKE: I think that's all.

THE COURT: Mr. Bill?

EXAMINATION BY MR. BILL:

Q. You would weigh all the evidence on both sides, whatever came in and whatever you heard? A. Yes, sir.

Q. You would wait until the end of the case? A. I certainly would.

EXAMINATION BY MR. McDONOUGH:

Q. What do you mean that you had an application

in to be a juror? A. Well, they sent me an application, and I had been for the last five years. I've been sending it in, and that was filled out properly.

Q. Who sent you the application? A. It came from Mr. Calnen's office, I presume.

THE COURT: Are you talking about a questionnaire?

A. Yes.

Q. You mean a questionnaire came from the clerk's office? A. Yes.

MR. McDONOUGH: That's all.

EXAMINATION BY MR. BURKE:

Q. Did you ask anyone in West Hartford, like the jury committee or the town manager, to put you on the jury list? A. No.

Q. You didn't? A. No.

Q. You don't know how you came to be on the list? A. This time?

Q. No. Before you got this questionnaire? A. Yes, I do know how my name came to be on the jury list. Mr. Ellsworth, who happened to be the Sheriff here, was a friend of mine, and I did mention it in the Courtroom at one time that if there was an opportunity to do substitute duty I would hope that he would help me to get it.

Q. Did Mr. Ellsworth summon you here to this Court? A. Not this time; no. In 1954 I was summoned for substitute, and after that I was on the list and I received the application every six months from Mr. Calnen's office.

Q. I mean in this particular summons to this Court, which you are a talesman, did Sheriff Ellsworth serve that summons on you? A. Oh, no.

Q. Or was it another sheriff? A. No. The other sheriff. The present sheriff here now.

Q. Another sheriff? A. Juliano called me up on the phone.

Q. Juliano called you up on the phone? A. Yes.

Q. And that's how you received your summons?
A. That's right.

Q. The sheriff didn't go and give you a paper?
A. No. No. My application was in.

Q. Your application was in? A. Yes.

MR. BURKE: Thank you.

MR. McDONOUGH: Do you mean that you were not served with a paper to appear here?

A. I wasn't served with a paper; no. I was called on the telephone. I had been into the sheriff's office —

THE COURT: You have answered the question, "No".

MR. BILL: Is there any claim, Your Honor, by the Defense that he has to be summoned by a paper?

MR. McDONOUGH: He's got to be summoned by a sheriff; not by a telephone conversation.

MR. BILL: Talesmen can be brought in here, Your Honor.

MR. McDONOUGH: May I be heard?

THE COURT: Yes.

MR. McDONOUGH: I claim this gentleman was improperly summoned. That isn't what I construe to be the instructions of the Court to be, under the statute that the sheriff — Where is that section?

THE COURT: 7925. He shall summon judicious electros to serve here as talesmen.

MR. McDONOUGH: I submit, if it may please the Court, that that is not a proper way to summon under the statute, for a sheriff to call on the telephone.

THE COURT: May I ask you, Mr. McDonough, do you have any authority whatever for your position?

MR. McDONOUGH: I would like a recess to submit some.

THE COURT: I'll give you that opportunity. Can't we dispose of this juror?

MR. McDONOUGH: I would ask Your Honor to excuse him instead of using a challenge.

THE COURT: All right, Sheriff, will you see that during the recess Mr. Stocks remains in this jury room where there is no one else, and escort the accused from the Courtroom.

(Accused removed from Courtroom.)

THE COURT: Short recess, Sheriff.

(Recess at 11:35 A.M.)

AFTER RECESS - 12:22 P.M. - May 10, 1957

THE COURT: Bring in the accused, if you will.

(Accused present in the courtroom)

THE COURT: Shall I call Mr. Stocks or do you want to be heard?

MR. McDONOUGH: For the purpose of the record, this motion is directed to the disqualification of Mr. Stocks because of the manner in which he was summoned. We claim he was improperly summoned by telephone, and that that doesn't meet our statute which refers to the service of summons, section 7773: "The service of a writ of summons shall be made by the officer reading it and

the complaint accompanying it in the hearing of the defendant . . . ." and then goes on further and states the complaint accompanying it. That refers definitely to a summons and the complaint accompanying it.

Our statute sets out that a writ is divided into two sections - a summons and a complaint, and our statute set out definitely how a summons shall be served. That is to be taken in itself.

In 125 Conn., at page 493, our Supreme Court said the particular method must be followed, and referred to section 7773, which I have cited to the Court. In 108 Conn. at 16, it states the purpose of the requirement is to insure actual notice. In the situation here, of course, would satisfy that, because of Mr. Stock saw fit to hang up the telephone and completely ignore the telephone summons by the deputy sheriff, he would have been safe in doing so. He would not be in contempt of court, and if this procedure is or was followed with all of the talesmen, we wouldn't have any talesmen here, and the court couldn't bring them in by telephone.

In Words and Phrases, Volume 40: "A summons is a paper which gives jurisdiction to the court over the person of the party brought in", and it cites *Adkins versus Moore*, 20 Southeastern, 985. Also *Stwelman versus Dalby*, 89 Pacific 2nd, 20. There it refers to a summons by an officer for the justice of the peace - a summons is a process issued from the office or a court of justice requiring the person to whom it is addressed to attend the court for the purpose therein stated. Also, *Whitney versus Blackburn*, 21 Pacific, 874. That is an Oregon case and it is the exact situation here. Mr. Stocks could have ignored the summons and would not have had to come to court. Therefore, the summons is not a proper summons, and seems a disqualification of him as a juror, Your Honor.

THE COURT: Would you care to be heard, Mr. Burke?

MR. BURKE: I will join in the argument of Mr. McDonough and add this: It is our understanding from the law we have found in a quick review that in order for a person to be properly within the jurisdiction of the court, such as these talesmen on a jury, there must be served on him some kind of a paper, and a telephone call from a sheriff or his deputy is not sufficient to bring that person within the jurisdiction of the court, and I think that is the general rule throughout the country.

THE COURT: I will overrule the motion. Bring in Mr. Stocks.

MR. McDONOUGH: May I have an exception?

THE COURT: Surely.

(The witness Charles Stocks recalled)

THE COURT: I am not sure. Did you start this, Mr Bill?

MR. BILL: I thought I did.

THE COURT: Do we agree he did?

MR. McDONOUGH: We agree.

MR. BILL: Accepted by the State.

MR. McDONOUGH: Accepted by Culombe.

MR. BURKE: Excused by Taborsky.

THE COURT: Mr. Stocks, I should say to you, I am going to excuse you, but I have to instruct you you are not to talk to anyone about what has transpired here this morning - the questions you have been asked or the answers you have given, or anything concerning this case, until a jury is selected and the evidence started. Thereafter you may use your own judgment. Is that clear?

THE WITNESS: Yes.

THE COURT: You are excused.

MAY 14, 1957 - AFTER RECESS 12:20 P.M.

THOMAS S. BRENNAN, having been previously duly sworn, was examined and testified as follows:

BY THE COURT:

Q. Mr. Brennan, on the inquiry you disclosed that you were the Employment Manager for what concern?

A. Fuller Brush.

Q. And you were having some difficulty. What was it?

A. Well, we have been very busy and we have been hiring a great number of people and we have reports that have to be gotten out and I have been working on that and I thought I should tell you that in the interests of the Court.

Q. You don't feel, or do you, that if you were selected as a juror you could give your full attention to this case, or do you? A. If I were selected I could give my full attention to this case. I just wanted to bring that point out and tell you about it.

Q. If you were selected, you would serve, is that correct? A. Yes.

Q. You are a voter? A. Yes.

Q. Are you married? A. Yes.

Q. Do you have a family? A. Yes, sir.

Q. How many? A. Two children.

Q. And how old are they? A. There are two, two girls, eleven and twelve.

Q. Would you tell us how long you have lived in Wethersfield? A. About two and a half years.

Q. Before that where did you live? A. Farmington - four years.

Q. And before that? A. Hartford.

Q Have you ever done jury service before this?
A. No, sir.

Q. You have already told us what your occupation is. Does your wife have any other occupation than as a housewife? A. No, sir.

Q. Have you ever been involved in a criminal prosecution, either as a complainant, an accused, a witness or otherwise, other than for a traffic violation? A. The only time I have been in Court was when I was a witness in an automobile accident.

Q. No, that is a civil action. If I were to tell you that under our law the jury determines the facts from the evidence presented here in Court, do you understand that? A. Yes, sir.

Q. I mean, do you understand that that is so?
A. Yes, sir.

Q. Now, under our law, also, the jury must take the law governing the case from the Court, which is I, and if I were to instruct you that was the law of Connecticut would you do so under my instructions? A. Yes.

Q. If I instructed you the law of Connecticut further is that these two accused sitting here are presumed to be innocent of crime - the crime with which they are charged or any crime for the purpose of this case until the State, by evidence produced here, proves them guilty beyond a reasonable doubt, would you follow that instruction?
A. Yes, sir.

Q. If I told you that presumption of innocence also includes this, that if you were accepted as a juror, you would have to eliminate from your mind any notion as a juror, anything you might have read about them or about this case, or heard on the radio or heard in general dis-

cussion or seen on television, and start as a juror with the presumption that they are absolutely innocent of this crime or any crime, until and unless the State, by evidence produced here in Court, proves them guilty beyond a reasonable doubt - would you follow that instruction?

A. Yes, sir.

Q. If I were to tell you further along the same line that our law is that these accused are under no obligation, either now or at any time during the trial, to produce evidence themselves to prove that they are not guilty, but that the burden always rests upon the State to prove them guilty beyond a reasonable doubt, would you also follow that instruction? A. Yes.

Q. If I were to tell you further that our law is that if you are selected as a juror you will not allow sympathy for these accused or their relatives or for the deceased or their relatives in any way to influence you in arriving at your verdict, you would follow that instruction? A. Yes, sir.

Q. If I were to tell you that neither prejudice nor bias must influence you in any way in arriving at a verdict in this case, would you also follow that instruction?

A. Yes, sir.

Q. If I were to tell you further that if police officers are offered on the witness stand here, and they probably will be as witnesses, that you are to test their credibility, whether you believe them and what amount of weight you will give their testimony by the same standard as you would test the weight or the credibility of any other witness produced here, would you follow that instruction?

A. I don't quite understand.

Q. If police officers were put on the stand to testify in this case, as they probably will be, you are to test their credibility, whether or not you believe them, or the weight you will give their testimony, by the same standard

you would test the weight of any other witness and the credibility of any other witness produced here, would you follow that instruction? A. Yes, sir.

THE COURT: Mr. Bill?

EXAMINATION BY MR. BILL:

Q. Mr. Brennan, do you believe in capital punishment? A. Yes, sir.

Q. I believe you said you lived in Farmington for a while. A. Yes, sir.

Q. How long did you live there? A. About four years or so.

Q. Did you know Mr. Burke out there? A. Only by reputation.

Q. You didn't know him personally? A. No, sir.

MR. BILL: That is all.

EXAMINATION BY MR. McDONOUGH:

Q. You realize, Mr. Brennan, don't you, that you are being called on what we refer to as a capital case? A. I

Q. And you will be called on a jury where the lives of two accused are at stake? A. Yes, sir.

Q. Do you know of any reason at all why you could not serve impartially and fairly if chosen as a juror in this case? A. Well, the judge said something about if I knew any of the attorneys' partners.

THE COURT: I didn't ask you that, but do you know some of the partners? A. I know Len Tracy and John Bracken.

THE COURT: Would that association or acquaintanceship in any way prevent you from rendering a fair trial solely on the evidence? A. No, sir.

THE COURT: Or embarrass you in any way?

A. No, sir.

Q. Mr. Brennan, have you ever held public office? A. No, sir.

Q. Have you any close friends or members of your family who have been members of a Police Department? A. No, sir.

Q. Are you acquainted in New Britain? A. Yes, sir.

Q. Did you know Kurpiewski and Janowski, the deceased in this case? A. No, sir.

Q. Did you ever do business with the gas station where this killing took place? A. No, sir.

Q. Do you know Dr. Bancroft, the Psychiatrist practicing in Hartford? A. I don't believe I do.

Q. Do you know Dr. Waterman? A. No.

Q. And you have no fixed opinion at the present time as to their guilt or innocence? A. I would follow the instructions of the judge.

Q. Your opinion has not been or is not such that you couldn't follow the instructions of the Court? A. That is right.

Q. You would start right off with this presumption of innocence if the Court so instructed you. A. Yes, sir.

Q. If you reached an opinion where you had based your verdict on it, would you stand by your opinion against the rest of the jurors regardless of the number opposed to you unless they could show you by reason, the power of reason, that you should change? A. If th y showed me by the power of reason, yes, sir.

Q. In other words, you would remain firm in your stand based on the evidence and law? A. Yes, sir.

Q. How long have you been with the Fuller Brush? A. Since 1949.

Q. The law of this state provides that a jury may return a verdict of murder in the first degree, and the punishment for that is death. It also provides that the jury may return a verdict of murder in the first degree and recommend life imprisonment. If the evidence in this case shows a basis to recommend life imprisonment, under the instructions of the Court would you consider recommending life imprisonment? A. I don't quite understand. If the judge recommends life?

Q. No. If His Honor told you that the jury, under the evidence - if the evidence warranted it - the jury could recommend life imprisonment. If the evidence in your mind warranted such a recommendation would you consider that recommendation? A. Yes.

Q. Now, if the evidence introduced showed that either one or both of the defendants, at the time of the commission of the crime alleged, did not have their minds and capacity and reason and understanding sufficient to enable them to understand the nature, character and consequences of the act, would you consider that evidence in arriving at the type of verdict in this case? A. You mean that one of the accused - the evidence showed they didn't have the mental capacity to know what they were doing, would I consider that in this case?

Q. Yes. A. I really don't know.

Q. Well, if the Court told you you could consider it, would you consider it? A. If there was such evidence, yes, sir, if the Court told me.

Q. Let us get down to this, Mr. Brennan. You have read crime stories in newspapers, including this one here.

Have you read of insanity defenses before presented in crime cases? A. Yes, sir.

Q. Have you any prejudice or feelings against an insanity defense? A. Yes, sir, I think I do.

Q. And even if an insanity defense was presented here, is your prejudice such that you feel you couldn't consider the evidence? A. I think — yes, I could consider the evidence - yes sir, I could.

Q. And if the evidence showed that the defendant, Culombe, since childhood - Culombe sits there (indicating) - had a mental incapacity and has at the present time, would you consider that in considering your recommendation of life imprisonment, even though he were guilty of murder in the first degree? A. I don't quite understand that.

Q. If evidence were submitted, Mr. Brennan, showing that from the time Culombe was an infant, he hasn't had proper reasoning powers, that he hasn't had the mind or capacity to judge of the nature and character of his acts, would you consider that evidence in determining whether or not to recommend life imprisonment if the Court told you you might? A. If the Court told me I might, yes.

Q. And if we introduced evidence showing that Culombe is, at the best, a moron, would you consider that in determining whether or not to recommend life imprisonment? A. If I was instructed by the Court, yes.

MR. McDONOUGH: That is all.

EXAMINATION BY MR. BURKE:

Q. Mr. Brennan, you say you know Mr. Leonard Tracy? A. Yes.

Q. Have you had business dealings with him?
A. Yes, both business and social.

Q. Both socially and business. And have you had business with Mr. Bracken as well? A. I am acquainted with Mr. Bracken in a semi-social - business way.

Q. But you have had business with Mr. Tracy?
A. Yes.

Q. Are you one of Mr. Tracy's clients? A. No, sir.

Q. This business you had with Mr. Tracy wouldn't affect your deliberations in this case at all? A. No, sir.

Q. Have you ever been the victim of any violence or robbery or holdup or theft or breaking and entering that caused you some financial loss? A. I was a victim of violence in the Service. There was no financial loss.

Q. Would you tell me the circumstances of it?
A. Well, it was down in Florida and a friend of mine and I were walking down the street and some people who he had an argument with - there was two of us and there were twelve of them and they jumped us and gave us quite a beating.

Q. Did this violence which was inflicted upon you - did it in any way affect your thinking, or would it affect your thinking in this particular case? A. I don't think so.

Q. The fact you where a victim of an unprovoked assault such as that - you say it wouldn't have any effect?
A. I don't think so.

Q. You said you read a lot about this case? A. Yes, sir, I read about this case.

Q. And you saw and read, I assume, about the alleged confessions having been made? A. Yes, sir.

Q. And did you, after reading about it in the newspapers and seeing it on television and radio, I assume, did you arrive at some opinion as to the guilt or innocence of these men? A. Yes, I did.

Q. This opinion is one of guilt, isn't it, Mr Brennan? A. Yes, sir.

Q. And this is an opinion you have had for some time? A. Yes, sir.

Q. Do you feel, Mr. Brennan, that you could overcome this opinion and sit fairly and impartially on this case? A. I would do my best.

Q. I know you would, sir, and you also have a high regard for the jury system and the rights that are the privilege of all of us, but it is very important that we know whether you could do it. A. I could.

Q. You could. You could just push that to the back of your mind or eliminate it from your thinking and just consider, when you deliberate on this case, the evidence you have heard here in Court and not be affected by anything you read or heard or that was discussed with anybody? It is important to all of us. A. I know it, sir. Yes, sir, I could.

Q. You could and you would? A. I would.

Q. Now, Mr. Brennan, have you ever been involved or contributed to or been a party to the establishment of any reward for the capture or apprehension of these men? A. No, sir.

Q. Now, if policemen testify, police officials, or state police officers testify in this case, Mr. Brennan, would you give their testimony greater credence than you would give to the testimony of an ordinary witness? A. No, sir.

Q. Would you give it any less credence? A. No, sir.

Q. You would use the same yardstick you would measure the testimony of every other witness? A. Yes, sir.

Q. Now, Mr. Brennan, there will undoubtedly be evidence submitted for your consideration which will be to the effect that these men have some mental illness or mental disease or mental incapacity to the extent they do not have mind enough and will enough to form the specific intent to choose their course upon consideration, and especially procedure and purpose, and put it into action; and mind enough and will power enough, and reasoning power enough, to plan and arrive at the specific design and intent to kill and carry out that plan. If this evidence is presented to you and you are instructed by the Court, will you consider it in arriving at your verdict? Is that too long? A. It is too long.

Q. Let me put it this way: If evidence is produced here that either one or the other of these defendants suffers a mental illness, disease or incapacity to such extent that he cannot form a proper intent to commit murder in the first degree, would you consider that in your verdict, or would your preconceived notion of their guilt interfere with your permitting its consideration in arriving at your verdict? A. Well, Judge, I have some knowledge on these things. You see, I am on the Board of Education for Retarded Children and I do know something about mental diseases.

THE COURT: But would you consider it in your deliberations, if there had been some instruction to you?

A. Consider the fact that —

THE COURT: That there was some evidence offered of that fact.

A. Yes, sir, if the Court instructed to that extent.

THE COURT: If the Court instructed you in that matter and the circumstances warranted it?

A. Yes, sir.

Q. (By Mr. Burke) Now, in your considerations as a juror, the law of our State is that the punishment for first degree murder is death or life imprisonment. Under the proper instruction of the Court, would you consider both penalties in arriving at your verdict? A. Would you give me that again?

Q. Yes. Our law is that the penalty for murder in the first degree is death by the electric chair or life imprisonment without hope of parole. In considering the evidence in this case and under the instructions His Honor will give you, would you consider both of these punishments in your verdict? A. If I was instructed by the judge I would, yes.

Q. What do you mean by that - do you mean you would not want to consider the second alternative?

A. Maybe I am mistaken, but I thought the judge would probably tell us whether it is possible or is not or both.

Q. The judge will tell you what the law is and what the penalty is and he will tell you that under our statute that the Court - or the jury - may recommend, upon consideration of all the evidence - recommend life imprisonment. From what you know of this case and what you know of the background of my client, Taborsky, would that prevent you in your deliberations from considering the alternative of life imprisonment?

MR. BILL: I object to the question.

THE COURT: I will sustain it.

MR. BURKE: I claim it on the doctrine in the case of State against Donahue, and in that case the Court said - the Court read the statute and told the jury it was in its discretion to recommend imprisonment for life, and that such a recommendation should be made a part of their consideration of all the evidence, and they stated in this

case that that is the law. They also said, and I can't find it here, but I just read it a little while ago, that the nalty for first-degree murder in this state is death or life imprisonment. I submit that we are entitled to have this juror consider both of the penalties.

THE COURT: I didn't say you were not. I sustained the objection to the question because I don't think the for is proper.

MR. BURKE: May I have an exception?

THE COURT: Certainly.

Q. In your deliberations, Mr. Brennan, under the instructions the Court will give you as to what the jury may do upon finding the defendant guilty of first degree murder, could you in arriving at your verdict consider recommending life imprisonment? A. Yes, sir.

Q. You could. So your preconceived r ntion of what you have read of the background of these men would not prevent you then from considering the alternative of life imprisonment? A. No, sir.

Q. Is there some hesitation in your mind? A. I want to be sure in my own mind. That is the reason I hesitate.

Q. Now, if I gather the over-all, Mr. Brennan, even though you have an opinion right now that these men are guilty, you could and would enter your deliberations with an open mind and judge their guilt or innocence only on the evidence you would hear in this courtroom?
A. Yes, sir. I would.

Q. And whatever notion or opinion you have of their guilt, you would give it any weight, determine it upon the evidence you heard here, and that you would wait, if I understand your testimony, upon the defendants to produce evidence of their innocence? Let me rephrase that.

Would you expect the defendants to produce evidence of their innocence to take from your mind the feeling right now you have they are guilty? A. Yes, sir.

Q. You would.

MR. BURKE: Thank you.

MR. BILL: Accepted by the State.

MR. McDONOUGH: Accepted by Culombe.

MR. BURKE: I move he be excused for cause when he said his presumption of guilt could only be removed by evidence from the defendant, and again I cite 58 Conn., Page 45.

THE COURT: I will deny the motion.

MR. BURKE: I will take an exception and ask that Mr. Brennan be excused.

THE COURT: You are excused, and I am going to say to you, you must not discuss what happened here this morning, the questions asked you or the answers you gave until a jury has been selected and evidence starts, whereafter you may use your own judgment. You are now excused.

THE COURT: Escort the accused from the courtroom. Bring in the four jurors, please.

(Recess at 12:55 P.M.)

MAY 14, 1957 - 2:52 P.M.

LEE LEVITOW

BY THE COURT:

Q. Sit right down. The first question, are you a voter? A. Yes, sir.

Q. Would you tell us how long you have lived in South Glastonbury? A. Approximately five years.

Q. Before that where did you live? A. Manchester.

Q. And ho wlong did you live there, approximately? A. Three years.

Q. Before that where did you live? A. Newington.

Q. Are you married? A. Yes, sir.

Q. Do you have any family? A. Yes, sir.

Q. How many? A. Two children.

Q. How old are they? A. A boy eleven and a girl ten.

Q. Have you ever had any jury service before this? A. No, sir.

Q. What is your occupation? A. Supervisor of tool and plant stores of Pratt & Whitney Aircraft in East Hartford.

Q. And have been for how long? A. Fifteen years.

Q. Does your wife have any other occupation than as a housewife? A. No, sir.

Q. Have you ever been involved in a criminal prosecution either as a complainant or an accused or a witness or otherwise, other than a traffic violation? A. No, sir.

Q. Or any member of your family, so far as you know? A. No, sir.

Q. The law of our state is that the jury determines the facts from evidence produced here in Court. Do you understand that to be so? A Yes, sir.

Q. But the jury must take the law governing the case, which it will apply to the facts; from the Court, which is I. If I instructed you that that is so, would you follow that instruction? A. Yes, sir.

Q. If I told you further that the law of this state is that these two accused, as they sit here, are presumed to be innocent of the crime with which they are charged, or any other crime so far as this case is concerned, until and unless the State proves them guilty by evidence beyond a reasonable doubt, would you follow that instruction? A. Yes sir.

Q. If I told you that that presumption of innocence also included this, that if you are selected as a juror you would have to eliminate from your consideration as a juror anything that you might have read about them or read about this case, or heard on the radio or heard in general discussion, or seen on television, and start the trial as a juror presuming them to be innocent of this crime or any crime until and unless the State, by evidence, proves them guilty beyond a reasonable doubt, would you also follow that? A. Yes, sir.

Q. If I were to tell you further along the same lines that these accused are not now nor will they be at any time during this trial under any duty to produce any evidence to prove that they are not guilty, but that the State must produce evidence to prove them guilty beyond a reasonable doubt, would you follow that instruction, also? A. Would you mind stating it once more, please?

Q. I think I could do it better, anyway. The presumption of innocence also includes the fact that if you are selected as a juror in this case you would have to eliminate from your consideration as a juror anything that you might have read about them, or the case, or heard about it on radio or in general discussion, or seen on television, and you would have to start your consideration of the case as a juror presuming them to be innocent of this crime or any other crime as far as this case is concerned, until and unless the State, by evidence produced here in Court, proves them guilty beyond a reason-

able doubt, could you follow that instruction?
A. Yes, sir.

Q. Along the same line, these accused are under no obligation now or at any time during the trial of this case to produce any evidence to prove that they are not guilty, but the State must produce evidence to prove that they are guilty beyond a reasonable doubt, if I were to tell you that would you follow that instruction? A. Yes, sir.

Q. If I were to tell you that the law also is that if police officers are produced here in Court and testify, as they undoubtedly will, that you are to test their credibility, determine whether or not you will believe them and what weight you will give to their testimony, by the very same standards as you test the credibility of any other witness that is produced here in Court, will you follow that instruction? A. Yes, sir.

Q. If I were to tell you further that in arriving at your verdict you must not allow sympathy for these accused or their relatives, or for the deceased or their relatives, in any way to influence you in arriving at your verdict, would you also follow that instruction? A. Yes, sir.

Q. If I were to tell you that prejudice and bias either against these accused or the State must not enter into your consideration or your determination of your verdict, would you also follow that instruction? A. Yes, sir.

THE COURT: Mr. McDonough.

EXAMINATION BY MR. McDONOUGH:

Q. Mr. Levitow, have you ever held public office?
A. Only from an appointive nature. Zoning Commission. Other than that, no.

Q. What town was that? A Newington.

Q. Ever been connected with a police department? A. No.

Q. Ever in the military police? A. No.

Q. This is a capital case. so-called, first degree murder, where the State is demanding the penalty of death. You realize that, don't you? A. Yes, sir.

Q. Have you any feeling for or against capital punishment? A. No, sir.

Q. The law of Connecticut provides that for murder in the first degree, death in the electric chair is the penalty. It also provides that the jury may recommend life imprisonment on a finding of first degree murder — the penalty then is life imprisonment without hope of parole. Have you any objection to that part of the law? A. As I understand you, you mean if the recommendation were life imprisonment rather than the death — No.

Q. You have no objection to that? If the evidence warranted it, Mr. Levitow, and the Court instructed the jury that they could make such a recommendation, would you on the evidence consider making such a recommendation? A. To the best of my ability I would say yes.

Q. Are you acquainted with Lieutenant Samuel Rome of the Connecticut State Police Department? A. No, sir.

Q. Or Sergeant Stephen Coffey of the New Britain Department? A. No.

Q. Or Captain Hayward of the New Britain Department? A. No, sir.

Q. Are you acquainted with Dr. Bancroft, the psychiatrist in Hartford? A. No, sir.

Q. Or Dr. Waterman? A. No, sir.

Q. You heard the statement to the panel, and on

behalf of Culombe, who sits here, I represent that evidence will be offered that Culombe, at the time of the commission of the alleged crime, had not the mind, the capacity, reason or understanding sufficient for him to judge of the nature, character and consequences of the act charged. If such evidence is submitted will you consider that evidence, under the Court's instructions, on the question of recommending life imprisonment? A. Yes, sir. I would consider it if the Court recommended it. By the Court I assume you mean the Judge.

Q. If the Court instructed the jury they could on the evidence, you would consider it? Now, Mr. Levitow, if the Defense — either one or both of these defendants submit evidence of the insanity of one or both of these accused, and the State fails to submit evidence of their sanity, will you follow the Court's instructions as to what is to be done by the jury on the evidence submitted by the Defense and the evidence or lack of it by the State? A. Yes, sir.

Q. You have read newspapers and followed the radio and television about this case, I assume? A. Somewhat.

Q. Did it cause you to form an opinion as to their guilt or their innocence? A. Only I believe there was a statement of a confession. Other than that I would have no basis for saying one way or the other.

Q. In reading of the alleged confession did it cause you to have fixed opinion in your mind that remains in your mind today? A. No.

Q. You have no fixed opinion in your mind today? A. No.

Q. So that you are absolutely open and clear to receive the evidence and follow the instructions of the Court? A. I would say yes.

MR. McDONOUGH: That's all. Thank you.

THE COURT: Mr. Burke.

EXAMINATION BY MR. BURKE:

Q. Mr. Levitow, have you ever been the victim of any violence or robbery or holdup or theft?

A. Violence as far as participation in athletics, yes. But otherwise, no.

Q. I mean like a holdup or some criminal violation?

A. No.

Q. Any members of your family or close friends been the victims of such things? A. Not that I know of.

Q. How did you happen to be summoned here?

A. I was at a Town meeting in Glastonbury last night and Deputy Sheriff Dusseault summoned me after the meeting into this Court.

Q. Did you indicate any opinion or make any statement that you wanted to be on this jury? A. Absolutely not.

Q. You realize that this case will take some little time — three or four weeks is the estimate. Would that in any way interfere with your employment? A. When you say "interfere", it would naturally create a hardship at work; but I would say "interfere" from the standpoint of being criticized for it; no.

Q. I mean, if you did sit here for that length of time you wouldn't be thinking of what was going on back at your place of business so that you couldn't give full attention to this case? A. I would certainly try my level best not to.

Q. I didn't hear? A. I would try my level best, certainly, not to.

Q. Do you think there would be some — A. I don't think so; no.

Q. You said that you had formed an opinion after reading about the confessions of these men. I assume that was that they were guilty? A. That's right.

Q. And that opinion you discussed with others, did you? A. Very generally, to the best of my recollection.

Q. Did you make any statement as to what you thought the punishment ought to be? A. No. We discussed it a number of times but none of us were well enough versed to form an opinion which would be concrete and definite.

Q. But it was an opinion? A. It was a thought; yes. Probably within ourselves.

Q. You say that you do or do not have that opinion today? A. I have no particular opinion other than, as I say, I read nothing further. We have been away for several weeks so I have read nothing about this particular case for the last three or four weeks as a minimum. As far as the opinion goes, it still reverts back to what I thought on reading that there had been a confession. I just assumed, naturally, there was guilt.

Q. Mr. Levitow, do you believe that it would take some evidence from the defendants to disabuse your mind of this opinion of guilt? A. Not after the instructions that I heard from the Judge.

Q. As it stands right now you are prepared to go into the jury box with an open, fair and impartial mind?
A. Yes.

Q. And you believe in our jury system, Mr. Levitow?
A. To the best of my limited knowledge of it, yes.

Q. And do you believe that a man is entitled to be tried by a fair and impartial jury? A. Oh, absolutely.

Q. And you would have no fear yourself of being

tried by a jury of men of your mind and disposition?

A. No.

Q. I think this was asked, but I can't recall whether it was or not. Would you give greater weight to the testimony of police officials, police officers, State Police officers, than you would give to the average citizen?

A. The question wasn't asked.

Q. I'll ask it. A. I would assume it would probably depend upon the nature of the testimony.

Q. Do you think that some of the police testimony you would give greater weight to than you would give to that of some other citizen? A. Quite possibly, yes.

Q. What type testimony would that be, Mr. Levitow?

A. Where I felt it was pertinent to the work which they are doing and for which they are trained, as against a layman.

Q. You mean such as ballistic experts? A. Yes. No question there. Fingerprints.

Q. How about investigations which they claim to have made, and their findings from these investigations? Would that weigh heavier because it was testified to by a policeman, than the testimony of a citizen? A. I would assume you are referring to an investigation along the type of work in which they specialize in. It would stand to reason, yes.

Q. You would give greater weight to that? A. Yes.

MR. BURKE: I think that's all.

THE COURT: Mr. Bill?

EXAMINATION BY MR. BILL:

Q. I think, Mr. Levitow, that you did say you believe in capital punishment, didn't you? A. I did not say that, sir.

Q. Do you? A. I said that I have no fixed opinion.

Q. Are you opposed to capital punishment? A. I didn't say that.

Q. No. I mean — A. I have no definite opinion on it as to whether I am for or against capital punishment.

Q. It might be, of course, if you are selected as a juryman, you would be called upon to make a choice on a situation of that sort. Can't you tell us now how you feel about it? A. I'm sorry; what little controversy I have read about —

Q. I don't mean this case. A. No. Speaking generally.

Q. Suppose you sat on a jury, and under the instructions of the Court and what you have learned of the law from the Court you found that the facts were sufficient in your mind to come to the conclusion of murder in the first degree. That means the death penalty. A. Yes.

Q. Would you refuse to come to that conclusion because the death penalty followed? A. No.

Q. Then to that extent you believe in it, don't you? A. To that extent, yes.

Q. You would not vote for murder in the first degree because you didn't believe in the death penalty, would you? Putting it another way? A. I wouldn't — Would you repeat that?

(Last question read by reporter.)

THE COURT: I think the question is wrong, Mr Bill. Go ahead.

Q. Knowing that first degree murder followed with the death penalty, would you refuse to come to the conclusion of murder in the first degree, even though you

thought the facts warranted it, just because it did carry the death penalty? A. No.

Q. And it would impress you, would it not, that the law of the State of Connecticut calls for the death penalty on murder in the first degree? You know that, don't you?

A. Yes, I believe I do. I understand there is a controversy about it right now. That"s the reason I stated before I have no fixed opinion.

Q. You have never taken part in any of that controversy, have you, one way or the other? That is, in the Legislature? A. No, sir.

Q. Or in any society, or anything of that sort?

A. No, sir.

Q. On this question of the mental capacity of the accused that Mr. McDonough asked you about, and his claim of what he expects to present here in connection with Culombe; on that subject matter you would wait, would you not, until the State had an opportunity to answer that claim with evidence of its own, and consider the whole subject matter as a whole, would you not?

A. Yes, sir.

Q. And that's true of all the evidence, isn't it, as it comes in? You would wait until the conclusion of the case? A. Yes, sir.

Q. Before making your complete decision?

MR. BILL: That's all.

THE COURT: Mr. McDonough.

MR. McDONOUGH: Accepted by Culombe.

THE COURT: Mr. Burke.

MR. BURKE: May I ask one question again, Your Honor?

THE COURT: Yes.

BY MR. BURKE:

Q. Have you contributed or been involved, Mr. Levitow, with any reward for the apprehension, capture and conviction of these men? A. No, sir.

Q. Did you ever participate in anything like that? You did state you would give greater weight in some instances to the police than you would to the average citizen? A. That's right.

MR. BURKE: I would as Your Honor to excuse him for cause.

THE COURT: Oh, no. Would you test the police officer's testimony, if he were produced on the witness stand, by the same standards as you would that of any other witness, to determine his credibility and what weight you would give to his evidence? A. Yes.

THE COURT: What you mean is that you would take a ballistic expert and you would give his testimony more weight than you would of a lay person if you were satisfied that he was telling the truth, is that correct?

A. That's right.

THE COURT: I'll deny your motion, Mr Burke.

MR. BURKE: Excused by Taborsky.

THE COURT: I have to instruct you that you are not to discuss with anyone what has transpired here today, the questions you were asked, the answers you gave, or anything, until a jury is selected and the evidence starts. Then you are free to use your own judgment about anything.

MAY 15, 1957 - 2:50 P.M.

ALICE C. PETERSON, having been previously sworn, was examined and testified as follows:

Q. The first question is easy: Are you a voter?
A. I think, — yes, sir.

Q. How long have you lived in Bristol? A. Sixty-one years or more.

Q. Keep your voice up so that they all can hear. Have you ever had any prior jury service before this?
A. I did.

Q. And where and when? A. The last time was a year ago, in New Britain, in a civil case.

Q. No criminal case? A. No.

Q. Are you married? A. Yes.

Q. Do you have a family? A. Just a husband.

Q. What is his occupation? A. He is retired.

Q. And before he retired? A. He was a die setter in the Ingraham Company.

Q. Do you have any occupation other than as a housewife? A. No.

Q. Have you ever been involved in a criminal proceeding as a complainant, or an accused, or a witness or otherwise, other than a traffic violation? A. No.

Q. Or any member of your family? A. No.

Q. You sat on a civil jury, so that you know the function of the jury in a jury case is to determine what the facts are from the evidence presented in court?
A. That's right.

Q. And you also know, do you not, that the jury must take the law governing the case from the Court?
A. That's right.

Q. You wouldn't have any hesitation in doing that, would you? A. No.

Q. If I were to tell you, and I will if you are selected as a juror, that under our law, these two accused, as they stand here, are presumed to be innocent of the crime with which they are charged, or any other crime, so far as this case is concerned, until and unless the State, by evidence, proves them guilty beyond a reasonable doubt, would you follow that instruction? A. Yes, I would.

Q. If I told you that that presumption of innocence also includes this - that if you were selected as a juror, you would have to eliminate from your consideration as a juror anything you might have read about these men or about this case, or heard on the radio or seen on television or heard in discussion, and that when the case started, you, as a juror, would have to regard them and treat them, and presume them to be absolutely innocent of the crime of which they are charged, until and unless the State proves them guilty beyond a reasonable doubt, would you follow such an instruction? A. Yes, I would.

Q. If I told you, further, that under our law, these accused are not now, nor will they be at any time during the trial, under any duty to produce any evidence to prove that they are not guilty, but that the burden remains upon the State to prove by evidence that they are guilty beyond a reasonable doubt, would you also follow those instructions? A. Yes, I would.

Q. If I were to tell you, further, that our law is that if police officers are produced here as witnesses and testify in this case, as they probably will, that you are to test their credibility - whether or not you believe them - with the same measure and in the same way and by the same standards as you would test the credibility of any other witness who is produced here, will you also follow those instructions? A. Yes, I would.

Q. If I tell you that our law is that as a juror, in arriving at your final verdict, you must eliminate from

your consideration all sympathy you might have for these accused or their relatives, or for the deceased of their relatives, would you also follow that instruction? A. Yes.

Q. If I tell you that prejudice or bias must play no part in arriving at your verdict, would you also follow that instruction? A. Yes.

THE COURT: Mr. Burke?

EXAMINATION BY MR. BURKE:

Q. Mrs. Peterson, have you read in the newspapers about these fellows? A. No, I haven't because I was away during the winter in Florida.

Q. And since you have been back have you heard any discussion or discussed this or other cases? A. No, the most I heard was in this court yesterday when they explained it.

Q. So that as you stand now, I take it, you have no opinion as to the guilt or innocence of the defendants? A. No, I have not formed any opinion.

Q. And you can sit with an open and clear and impartial mind and decide the guilt or innocence of them based only on testimony you hear here? A. I believe I could.

Q. Are you related to any policemen or are you friendly with any policemen? A. No.

Q. You have no close connection with anyone involved in law enforcement? A. No.

Q. In this case the State would bring its evidence forth first, and the defense will then have an opportunity, if it chooses, to bring in its evidence. Would you be able to wait until you heard all the evidence and not make up your mind at the end of the State's case? A. I would have to.

Q. I know you should, but I want to know if you would. A. I would, yes.

Q. In this case, if evidence is produced for you of the mental illness, mental disease or mental incapacity to the extent that either one of them could not form the proper intent for first degree murder, under the instructions of the Court would you consider that in deciding on your verdict? A. I would have to think about that. I don't know if I could give you an answer right away on that.

Q. Would you think about it a little bit and give me your answer? A. You want to know if I would consider that as an excuse? Is that what you mean?

Q. I want to know, in the event defense evidence was produced for you, would you in arriving at your verdict consider that evidence, or would you dismiss it and pay no attention to it at all? A. No, I would put some consideration into that.

Q. You understand, Mrs. Peterson, that the penalty for murder in this state - first degree murder - is death or life imprisonment if the jury recommends it upon a consideration of all of the evidence, and this life imprisonment is without hope of parole; and there is also second degree murder and manslaughter. If the evidence is such and you have heard the instructions of the Court, will you consider all the possible verdicts the jury might come to? A. If I was able to I would.

Q. Would there be something that would prevent you from considering all of them? A. No, not that I know of.

Q. Then you would do that? A. Yes, I would do the best of my ability.

Q. Do you feel, Mrs. Peterson that the testimony of a police officer would be of greater weight, or would you

give it greater belief than you would the testimony of another witness? A. Well, that is hard to say. If you put it another way, maybe I would understand.

Q. Would you believe a policeman's testimony ahead of the testimony of some other witness? A. Yes, I think I would.

Q. And because he was a policeman, you would give his testimony more weight than you would the average person going up on that stand? A. Yes, I think so.

Q. Now, have you ever been the victim of any robbery, violence or hold-up or theft, or has any member of your family? A. No.

MR. BURKE: Think that is all.

EXAMINATION BY MR. BILL:

Q. Do you believe in capital punishment? A. Yes, when it is warranted I do.

Q. That is, if the acts warranted it and you believed them? A. Yes.

MR. BILL: That is all.

EXAMINATION BY MR McDONOUGH:

Q. Have you an opinion, Mrs. Peterson, as to the guilt or innocence of these two men? A. No, I have no opinion.

Q. What papers do you read? A. The Bristol Press.

Q. Do you read the Hartford papers? A. I do - the Courant once in a while.

Q. Did you read about the crime with hich these men are charged? A. No, I was away in Florida and did not get any Connecticut papers.

Q. Or didn't see any television or hear any radio broadcasts? A. No, not down there.

Q. So that there is nothing that caused you to form an opinion? A. No.

Q. Do you know Dr. Bankroft of Hartford? A. No.

Q. Or Dr. Waterman? A. No.

Q. Did your husband ever hold public office? A. No.

Q. Did you ever hold public office? A. No.

Q. Do you or your husband belong to any law enforcement organization? A. No.

Q. You have no feelings against capital punishment? A. No.

Q. Have you read any of the headlines on capital punishment? A. No.

Q. It is just a feeling that you have that it should be carried out if warranted? A. Yes.

Q. In this case if the evidence warrants returning a verdict of murder in the first degree, and the penalty was death, you wouldn't hesitate to return it? A. That's right.

Q. If the evidence justified it? A. Yes.

Q. Our law provides that the jury may, in a finding of murder in the first degree, recommend life imprisonment.

Q. If the evidence recommends - if the evidence shows that you should recommend life imprisonment, would you do it? A. Yes, I think I would.

Q. Under the instructions of the Court would you render a verdict recommending life imprisonment if the evidence warranted it? A. Yes.

Q. There will be evidence that this man Culombe, at the time of the commission of the crime, did not have

the mental capacity to form a judgment or an understanding of the nature and character of the crime. Having heard such evidence, would you consider it seriously in deciding a verdict in this case? A. Yes, I think I would.

Q. His Honor will probably charge the jury that the failure of an accused to take the stand and testify - that because of such failure, the jury can draw an inference. You would follow His Honor's instructions in that respect, wouldn't you? A. Yes.

Q. And in drawing an inference, Mrs. Peterson, on his failure to take the witness stand and be a witness, would you consider evidence affecting his mental condition if it was presented to the jury? A. Yes.

Q. You would consider that evidence in concluding why he did not take the witness stand? A Yes.

Q. And if you heard medical testimony that this man was at the time of the crime and has been for many years and is now a moron and in the class almost of an imbecile, would you consider that evidence? A. Why, yes.

MR. McDONOUGH: That is all.

BY MR. BILL:

Q. On this question of mental capacity, you would wait after the accused went ahead with some evidence of mental incapacity - you would wait until the State was given a chance to produce evidence to prove they are mentally competent? A. Yes, if I heard evidence.

MR. BILL: Thank you.

MR. BURKE: I would ask that the lady be excused for cause. She said she would give a policeman's testimony more weight than others.

THE COURT: I will deny the motion. Will you accept or reject?

MR. BURKE: I will excuse her.

MAY 17, 1958 - 3:15 P.M.

BARBARA HILL, having been previously duly sworn, was examined and testified as follows:

BY THE COURT:

Q. Are you a voter? A. Yes, I am.

Q. Are you married? A. Yes.

Q. Do you have a family? A. Yes.

Q. How many do you have? A. I have two girls.

Q. Are they grown? A. One is at the University of Connecticut and one is a freshman in highschool.

Q. Have you ever had any jury service before this? A. No.

Q. What is your husband's occupation? A. He is a teacher.

Q. Where? A. At the Burns School in Hartford.

Q. Do you have any occupation other than that of housewife? A. Yes, I am a teacher at the Northwest School in Hartford.

Q. Have you ever been involved in a criminal prosecution as a complainant, or an accused or a witness, or otherwise, other than for a traffic violation? A. No.

Q. Or any other member of your family so far as you know? A. No.

Q. Under our procedure in a case of this kind, it is the jury's function and duty to determine the facts from

evidence produced here in Court. Do you so understand?
A. Yes, I do.

Q. But the jury must take the law which governs the case from the Court, which is I, and apply it to the facts. If I instructed you that was the law, would you accept it? A. Yes.

Q. If I were to tell you that the law of Connecticut is that these two accused, as they sit here, are presumed to be innocent of the crime with which they are charged, or any other crime, for the purpose of this case, until and unless the State proves them guilty beyond a reasonable doubt by evidence produeed here, would you follow that instruction? A. Yes, I would.

Q. If I told you in connection with that, if you were selected as a juror here, that you would have to eliminate from your consideration as a juror anything you might have read about these men or about this case, or heard on the radio or heard in general discussion, or seen on the television, or conjectured in your own mind, and you would have to give these accused the presumption that the law of Connecticut gives them - that they are innocent until and unless the State proves them guilty by evidence beyond a reasonable doubt, would you also follow that instruction? A. I would try very hard to.

Q. Now, there is another corollary that goes along with that, and that is this: I would instruct you that the law of the State of Connecticut is that neither now nor at any time during the trial of these accused are they under any obligation to produce any evidence to prove they are not guilty or to remove any impression you might have from outside sources about it, and that the duty is on the state now and throughout the trial to prove them guilty by evidence beyond a reasonable doubt, would you follow that instruction? A. Yes, I would.

Q. If I were to tell you that under our law if police

officers are offered here as witnesses - and they will be - you are to test their credibility - whether or not you believe them, or the amount of weight you give their testimony, by the very same standards you test the credibility of any other witness who is produced here, would you follow that instruction? A. Yes.

Q. If I were to tell you further that the law of Connecticut is, if you are selected as a juror, you would have to eliminate from your consideration any sympathy for these accused or their relatives or for the deceased or their relatives and not to allow that to enter into the determination of your final verdict, would you follow that instruction? A. I would try to, yes.

Q. If I were to tell you that neither prejudice nor bias must affect you in any way in arriving at your verdict, would you follow those instructions? A. I would find it difficult to.

Q. Why? A. From what I have heard, I have formed an opinion.

Q. That is from what you saw or heard? A. Yes.

Q. You cannot and the State of Connecticut does not regard them guilty because of anything that has appeared in the paper or on the radio, and you must regard them as innocent until the State proves them guilty beyond a reasonable doubt. Knowing that, couldn't you sit on this case and accord them a fair trial? A. Yes, I think I could.

Q. And based entirely on the evidence presented here? A. Yes.

THE COURT: Mr. Bill?

EXAMINATION BY MR. BILL:

Q. Mrs. Hill, do you believe in capital punishment? A. Yes, I do.

MR. BILL: Thank you.

EXAMINATION BY MR. McDONOUGH:

Q. Do I understand you have or have not an opinion as to the guilt or innocence of these men? A. Well, as I said before, my opinion is based on what I have read.

Q. And that opinion is that they are guilty? A. Right now.

Q. As of today? A. Yes.

Q. There is no question but what you could try to follow the instructions of the Court, but instructions or no instructions, isn't it a fact that that opinion would be taken into the jury box with you until evidence comes in to convince you otherwise? A. Yes.

Q. That is a human element that would enter into your deliberations? A. Yes.

Q. And that opinion would enter into your decision of the case? A. Yes.

Q. You couldn't start off the case with the presumption of innocence? A. No.

Q. The law says that every man is entitled to that presumption. Would you be able to listen to that law and would you comply with it and start your jury service with the presumption of innocence or with the presumption of guilt until you heard evidence of his innocence? A. I think I could maintain an open mind.

Q. Never mind what you think. When you start the case, will your mind be free of any presumption of guilt? Can you, when you take the oath as a juror, honestly say to yourself, "In my mind they are innocent"? A. No.

Q. As a matter of fact, it would be in your mind that they would be guilty? A. Yes.

MR. McDONOUGH: That is all.

MR. BURKE: No questions. I would ask that the lady be excused.

THE COURT: I will deny the motion.

MR. McDONOUGH: I will join in that motion.

THE COURT: I will deny that.

MR. BURKE: An exception, please.

THE COURT: An exception may be noted.

MR. BURKE: Excused by Culombe.

THE COURT: You are excused, but I have to instruct you that you will say nothing of what has transpired here, the questions asked you or the answers you have given until a jury has been selected and the evidence started, whereafter you may use your own judgment. You are excused.

TUESDAY - MAY, 21, 1957 - 10:16 A.M.

(Accused present in court)

THE COURT: Are you ready to proceed, gentlemen?

MR. BURKE: In line with Your Honor's request, I have here a certificate from the Town of East Hartford.

THE COURT: I suppose that should be marked.

MR. BILL: No objection.

THE COURT: That will be Defendant's Exhibit 11.

(Certified copy of Minutes of Board of Finance of Town of East Hartford marked Defendants' Exhibit 11)

THE COURT: Would you care to be heard any further, Mr. Burke?

MR. BURKE: Yes, Your Honor, I feel in view of the fact that this juror in question did participate in

the offering of the reward, and because of the publicity in this case, and all the charges being intertwined, that it is obvious that this juror should be excused.

MR. McDONOUGH: What I am afraid about - the other morning I spoke about this - it probably will get back to this juror and make him a rather difficult proposition.

THE COURT: I will deny the motion.

MR. BURKE: May I have an exception?

THE COURT: Surely.

MR. McDONOUGH: And may I have an exception?

THE COURT: Surely. Call the jury, Sheriff.

MAY 22, 1957 - 10:20 A.M.

GLADYS L. HEISE, having been previously duly sworn, was examined and testified as follows:

BY THE COURT:

Q. Good morning. The first question is easy - are you a voter? A. I am.

Q. And you will keep your voice up, please? A. I will try to.

Q. You told me you were a voter? A. Yes.

Q. Will you tell me how long you have lived in West Hartford? A. Thirty-one years, I think.

Q. You are doing what is perfectly natural and you are speaking loud enough for me, but these gentlemen have to hear you. You say thirty-one years? A. Thirty or thirty-one.

Q. And you are married? A. Yes, sir.

Q. Do you have a family? A. I have.

Q. How many? A. Three children.

Q. How old are they? A. Forty-three, forty-one and thirty-four.

Q. Now, you have told me their age, but I don't know which is which. A. My oldest daughter is forty-three, my next younger, forty-one, and my son is thirty-four.

Q. Now, what is the occupation of the daughter? A. My oldest daughter is not married; she is a teacher in the Newington School.

Q. Your next daughter, is she married? A. She is forty-one and married and lives in Manchester.

Q. What does her husband do? A. He works at the International Business Machine.

Q. And in fact, what is his occupation? A. Well, it is in the repair service.

Q. Maintenance? A. Yes.

Q. Your son - what does he do? A. He is thirty-four and works for the Plax Corporation.

Q. Where is that? A. Bloomfield.

Q. In general, what is his work? A. He is a Junior Executive.

Q. What does your husband do? A. Works for the Aetna Life Insurance Company.

Q. He has been employed there some time? A. Yes.

Q. In what Department? A. The Home Office Audit.

Q. Do you have any other occupation than as a housewife? A. No, sir.

Q. Have you ever been involved in a criminal prosecution, either as a complainant, or an accused, or a witness, or otherwise, other than for a traffic violation?
A. No, sir.

Q. Or any member of your family? A. So far as I know, no.

Q. Have you ever had jury service before? A. I have.

Q. Where and when? A. 1955, Common Pleas Court here.

Q. During that time did you serve on any criminal cases? A. Yes, I think we had one.

Q. Do you remember what the nature of the charge was - in a general way - was it an automobile violation?
A. No, sir, an accident in which somebody was injured.

Q. And the verdict of the jury was guilty or not guilty? A. Guilty.

Q. I started to say to you that under our procedure, which you undoubtedly know, having served on a jury, that the function and duty of the jury is to find facts from evidence produced here in Court only. You understand that? A. Yes.

Q. But the jury must take the law governing the case from the Court, which is I. If you are selected as a juror, would you do that? A. Yes, sir.

Q. The law of the State of Connecticut also is, as you may or may not recall, that these two accused, as they sit here, are presumed to be innocent of the crime with which they are charged, or of any crime, for that

matter, as far as this case is concerned, until and unless the State, by evidence produced here in Court, proves them guilty beyond a reasonable doubt. If I were to instruct you that that was the law, would you follow it? A. Yes, sir.

Q. That involves this: That if you are selected as a juror you must eliminate from your consideration as a juror anything you might have read about these men or read about this case or heard on the radio or heard in general discussion or have seen on television, and start your consideration of this case, giving them the presumption which the law gives them, that they are innocent of the crime with which they are charged until and unless the State proves them guilty beyond a reasonable doubt. Would you follow that instruction? A. I would.

Q. Now, that involves this: Our law also is that neither now nor at any time during the trial are these accused under any duty to produce any evidence to prove that they are not guilty, or to remove any impression that you might have in your mind, which you may have got from outside sources, such as reading, or hearing it discussed, because the burden throughout the case, now and during the entire trial is on the State to prove that they are guilty beyond a reasonable doubt. Would you follow that instruction? A. Yes, sir.

Q. The law of Connecticut also is, and you may have been told this before, that if police officers are put on the stand and testify in this case, you are to test their credibility and whether or not you believe them, what weight you will give their testimony, if any, by the very same standards as you test the credibility of any other witness who is put on the stand. Would you also follow that instruction? A. Yes, sir.

Q. A law of the State of Connecticut is that if you are selected as a juror, you must eliminate from your

consideration any form of sympathy that you might have for these accused or their relatives, or for the deceased or their relatives. Would you also follow that instruction?

A. Yes, sir.

Q. And then, finally, if I were to instruct you that you must not allow prejudice, bias or sympathy in any way to influence your arriving at a verdict, would you follow that instruction? A. Yes.

THE COURT: Mr. McDonough?

EXAMINATION BY MR. McDONOUGH:

Q. Have you any objection to capital punishment? A. No.

Q. Have you followed the newspaper stories relative to this case? A. Only headlines.

Q. Have you seen incidents on television connected with this case? A. I have, but I don't remember them.

Q. Have you listened to the radio broadcasts concerning it? A. No, sir.

Q. Have you heard people discuss the case? A. Off and on, yes.

Q. Well, not only with regard to this case, but have you read articles or heard people listening to broadcasts or read columns about any other case? A. No, sir.

Q. Did you read about Taborsky being a convicted murderer of a man in West Hartford and later being released from prison? A. Yes, headlines.

Q. From what you have read or heard or from anything else, have you formed an opinion of the guilt or innocence of the accused? A. No, sir, because I haven't heard any evidence.

Q. Are you acquainted with Lt. Rome of the State Police? A. Who?

Q. Lt. Rome? A. No.

Q. Are you acquainted with Sgt. Paige? A. No, sir.

Q. Or Commissioner Kelly? A. No, sir.

Q. Or the New Britain Police Department Captain - Captain Hayward or Sgt. Coffey? A. No.

Q. Are you acquainted in New Britain to any extent? A. No.

Q. Did you know any people by the name of Janowski or Mr. Kurpiewski, the men who were killed? A. No, I didn't.

Q. Do you know Dr. Bancroft of Hartford? A. No.

Q. Do you know Dr. Waterman? A. No.

Q. Is your health good? A. Very good.

Q. Is there any reason why you couldn't serve on this jury so far as your personal matters are concerned at home or in business or anything else? A. No reason.

Q. You do not know any of the parties connected with this case? A. No.

MR. McDONOUGH: That is all.

EXAMINATION BY MR. BURKE:

Q. Mrs. Heise, did you know Mr. Wolfson in West Hartford? A. No.

Q. Tell me, have you or any member of your family ever been a victim of any violence, robbery, holdup, theft or anything like that? A. No, sir.

Q. You say you have formed an opinion? A. No, I have heard no evidence.

Q. Have you read in the newspapers anything about

an alleged confession by anybody? A. I only recollect the headlines. I am not particularly interested in the case.

Q. Did you read the headlines? A. I read something about a confession.

Q. Having read that, do you have any opinion or thinking on the matter? A. No.

Q. After you read the man had confessed did you think the man was guilty or not guilty? A. I don't know.

Q. The confession didn't mean anything to you? A. No, it didn't.

Q. Now, in the event, Mrs. Heise, evidence is here produced for your consideration as to the mental health, mental disease or mental incapacity of one or the other of these men, in considering all the possible verdicts which His Honor will instruct you on, will you give consideration to that evidence in arriving at your verdict? A. Yes.

Q. You understand the penalty for first degree murder in Connecticut is death? A. Yes.

Q. Or life imprisonment if recommended by the jury, without hope of parole? A. Yes.

Q. And that recommendation can be made by the jury from a consideration of all the evidence. Now, in considering whether or not you would make such a recommendation, would you consider evidence of mental incapacity or mental illness? A. If the evidence was so presented, yes.

Q. Would you, Mrs. Heise, give greater credibility to the police officer than you would to the average citizen? A. Yes, I think I would - he is better trained.

Q. And for that reason you would give him greater belief than you would the average citizen? A. Yes, sir.

Q. Now, Mrs. Heise, if you were in the jury room and the verdict was eleven to one and you were the one, would you retreat from your position in which eleven others had a different position? A. That is a hard question to answer. I don't know what I would do - it would depend on the evidence.

Q. By that, do you mean you would stand by your opinion until they brought in better logic or better reasons to change your opinion? A. Possibly, yes.

Q. You wouldn't hold out stubbornly against the eleven for no reason, would you? A. No, sir.

Q. Except persuaded in your own opinion?
A. That is right.

Q. You say you have no reason or see no reason why you can't sit here and impartially judge the case?
A. No reason.

MR. BURKE: That is all.

EXAMINATION BY MR. BILL:

Q. I think you said you believed in capital punishment? A. Yes.

Q. How do you pronounce your name? A. Heise.

Q. In connection with evidence of mental condition that Mr. Burke just stated might be introduced at the trial, you said in answer to his question that in considering whether or not you might make a recommendation for life imprisonment, you would consider the evidence and you said you would if it was presented. Do you mean by that you would consider evidence along the line also presented by the State, wouldn't you? A. Yes.

Q. In other words, you would consider all evidence that was presented? A. All evidence, yes.

Q. Before you come to any conclusion on any matter, is that correct? A. Yes.

BY MR. McDONOUGH:

Q. Do you hold public office or have you ever held public office? A. No.

Q. Has any member of your family ever been connected with a police department? A. My father-in-law was a policeman but he has been dead for twenty years.

MR. McDONOUGH: That is all. Accepted by Culombe.

MR. BURKE: If Your Honor please, I would ask Your Honor to excuse Mrs. Heise for cause. She said she would give the policeman's testimony more credibility than other witnesses.

THE COURT: She told me you would test their credibility by the same standard as the testimony of any other witness. I will deny the motion.

MR. BURKE: She is excused.

THE COURT: I have to instruct you that you are not to talk about what happened here, the questions you were asked, or the answers you gave or anything of what happened here, until the jury is selected and the evidence has started, whereafter you are free to use your own judgment. Do you understand that?

THE WITNESS: Yes.

MR. BURKE: Exception, Your Honor.

MAY 22, 1957 - 3:52 P.M.

MRS MARGARET CARINI

EXAMINATION BY THE COURT:

Q. Sit right down, if you will. Are you a voter?
A. Yes.

Q. And are you married? A. Yes.

Q. Do you have a family? A. Yes.

Q. How many? A. I have two of my own children and a foster child.

Q. Your own two children, how old are they?
A. I have a girl eight and a boy ten.

Q. And the foster child is how old? A. Twelve.

Q. Now, how long have you lived in South Glastonbury? A. Fourteen years.

Q. Of course you heard me this morning that any lady with children under sixteen years of age can claim exemption. Did you understand that? A. Yes.

Q. You don't have to, but you can if you want to. Do I understand that you are perfectly willing to serve if you are accepted? A. Yes.

Q. Now, that involves perhaps three to four weeks of trial. Could you work out your situation so that you could give your full attention to this case Tuesday, Wednesday, Thursday and Friday? A. Yes.

Q. All right. Have you ever had any prior jury service? A. No.

Q. What is your husband's employment? A. He works for United Aircraft, and he's a building contractor.

Q. He works for United Aircraft and he is a building contractor, too? A. Yes. He has two jobs.

Q. Where is his building contracting business done?
A. Wethersfield; West Hartford.

Q. I mean, where is his principal place of business? South Glastonbury? A. His office is at home.

Q. But he works all around the county, is that correct? A. Yes.

Q. Now, you don't have any other occupation than as a housewife, do you? A. No.

Q. Have you ever been involved in a criminal prosecution either as a complainant or an accused or a witness or otherwise, other than a traffic violation? A. No.

Q. Or any member of your family, so far as you know? A. No.

Q. In a case of this kind it is our procedure that the jury determines what the facts are from evidence produced here in Court. Do you so understand? A. Yes.

Q. But the jury must take the law which covers the case, from the Court, which is I. Would you follow that instruction if I told you it was the law? A. Yes.

Q. Under our law these accused, as they sit here, are presumed to be innocent of the crimes with which they are charged, or of any crime, for that matter, so far as this case is concerned, until and unless the State, by evidence produced here, proves them guilty beyond a reasonable doubt. If I told you that is the law would you follow that instruction? A. Yes.

Q. Now, that involves this, also, that if you are selected as a juror in this case you must eliminate from your consideration as a juror anything that you might have read about these men or about this case, or heard on radio or heard in general discussion, or seen on television, and start your consideration of the evidence according to that presumption which the law gives them — that is, that they are presumed to be not guilty until and unless the State proves by evidence here in Court that they are guilty beyond a reasonable doubt. Would you follow that instruction? A. Yes.

Q. A corollary of that is this: That under our law these two accused are under no duty to present any evidence here in Court, either now or at any time during the trial, to prove that they are not guilty or to remove any impression that you might have in your mind, if you have any impression, but that the State is under a burden to prove that they are guilty beyond a reasonable doubt, by evidence produced here in Court. Would you also follow that instruction? A. Yes.

Q. If I told you that the law was, and it is, that if police officers are presented in this case and testify, that the jury is to determine — Question withdrawn. If police officers are put on the witness stand here and testify, and you are selected as a juror, you must test their credibility, whether or not you are going to believe them and what weight you are going to give to their testimony, by the very same standards and in the same way that you test the credibility of any other witness who is put on the witness stand, would you also follow that instruction? A. Yes.

Q. If I told you that under our law, that if you are selected as a juror you would have to eliminate from your consideration in arriving at your verdict any feelings of sympathy that you might have for these accused or their relatives, or for the deceased or their relatives, would you also follow that instruction? A. Yes.

Q. And if I told you that neither prejudice nor bias of any kind must enter into your consideration of your verdict, would you also follow that instruction?

A. Yes.

THE COURT: Mr. Burke.

EXAMINATION BY MR. BURKE:

Q. Mrs. Carini, what means was used to summon you here? A. The sheriff came to the house last night and told me that I was to come here this morning.

Q. And your children, you would have somebody take care of them during the three or four weeks that you will be in Court? A. My father is living with me now.

Q. So that you wouldn't be concerned or worried about them while you are here? A. No.

Q. So that your mind would be on the business here, and not thinking of home? A. Yes.

Q. Have you read about these men and about this case in the newspapers? A. No.

Q. You haven't read about them? What newspaper do you read? A. The Hartford Times we take.

Q. And you haven't read any stories about these men? A. No. I was in California during February and March.

Q. During December and January did you read stories about holdups going on? A. I didn't read about it. I heard about it.

Q. And have you discussed this matter with your friends or people that you know? A. No. The only time I discussed it was last night when I knew I had to come in.

Q. And from your discussion have you arrived at any opinion as to the guilt or innocence of these men?
A. Yes and no.

Q. Well, let me put it to you this way: Do you feel that they are guilty? A. If I go by what I have heard I would say yes.

Q. Feeling as you do, that they are guilty, Mrs. Carini, would, you expect the defendants to produce some evidence to show you they are innocent? A. I would expect something.

Q. You have heard, I assume, that they gave a confession? A. Yes, I did hear that.

Q. And do you expect that they would have to produce some evidence here in Court to show you that they are innocent? A. Yes.

Q. And if you went into the jury box you would go in with the idea that they had to produce some evidence that they are innocent? A. Yes.

Q. With that frame of mind do you feel you could start off presuming them innocent, if you would expect them to prove themselves innocent? A. Yes.

Q. Well, you feel they are guilty now, don't you? A. Yes.

Q. And if you went into the jury box you would still feel they were guilty, wouldn't you? A. I suppose.

Q. So if you felt that they were guilty now, you couldn't at the same time presume them innocent, could you? A. Let's say that I would try very hard to listen and find out whether they were or not.

Q. I know that you would try hard and you would probably do the best you could, but could you forget all about or drive from your mind this feeling or opinion you have of their guilt? In fairness to yourself do you think you could do it? A. I don't know.

Q. Well, I'll have to press you for an answer. You don't think you could do it, do you? A. Will you ask me again?

Q. I said, you don't really think that you could presume them innocent, feeling as you do that they are guilty A. I still don't know. I mean, due to the fact that it is in my mind that they are innocent until they are proven guilty, and then they did sign a confession, I just don't know. I wouldn't know — I just don't know.

Q. You also said you would expect them to produce some evidence to show you they are innocent? A. Yes, I would.

Q. If you would expect that and if you would believe that they are guilty do you think — or could you sit on the jury and presume them innocent? "Presume them innocent" means that you had at least a prima facie belief they are until it is proved otherwise. A. Yes.

Q. But you couldn't do that, could you? A. I think I could.

Q. You could presume them innocent, believing they are guilty? A. I don't know.

Q. Supposing we leave it. Do you believe in capital punishment? A. Yes.

Q. And you understand in this state that if the jury comes out with a verdict of guilty of first degree murder the mandatory sentence is death? You understand that? A. Yes.

Q. Now, do you also understand that another part of the law states that if the jury, from a consideration of all the evidence, may recommend life imprisonment without hope of parole? Do you understand that? If His Honor so instructs you and we produce evidence for you here of the mental illness or the mental incapacity or the mental disease of one or the other of these defendants, in considering that verdict and as a part of that verdict a recommendation of life imprisonment will you give that evidence consideration in your deliberations? Is that too involved?

A. You mean if they are found guilty they would be sentenced to death, or if they were found to be mentally ill they would be sent to an institution, and how would I feel about that?

Q. No. I think it was involved. I didn't understand it, hardly, myself. What I mean is this: The jury may recommend life imprisonment after they consider all the evidence, the law says. Now, in this recommendation or in the verdict in which you are deliberating, whether or not you will come out with such a recommendation, would you give consideration to evidence of mental illness or mental incapacity? A. Yes.

Q. You would? A. Yes.

Q. Now, have you or any member of your family ever been the victim of any violence, holdup, theft, or anything like that? A. No.

Q. Are you related to any policemen? A. No.

Q. And are you acquainted with or friends of any State policemen or local policemen? A. Yes.

Q. Which policeman? A. Joseph Varney, from Glastonbury.

Q. Are you quite friendly with him? Does he visit at your home? A. He has in the past.

Q. And in your visits with him, or talks, do you discuss law enforcement or police work? A. No.

Q. Have you ever discussed this case with him?
A. Oh, no. This has been years ago.

Q. Right now, I mean? A. No; not in the past year.

Q. You are not acquainted with Lieutenant Rome of the State Police? A. No.

Q. Or Sergeant Paige? A. No.

Q. Are you acquainted with any policemen in New Britain? A. No.

Q. Do you know Dr. Bancroft? A. No.

Q. Dr. Waterman? A. No.

Q. You hesitated on Dr. Bancroft. He is a psychiatrist in town. A. No, I think I heard the name. I don't think I know him.

THE COURT: Keep your voice up a little bit.

A. No, I don't think I know him.

Q. So you can think of no reason why you shouldn't sit on this jury? A. No.

Q. And you still don't know whether or not you could presume these men innocent, believing as you do now that they are guilty? A. No, I don't.

MR. BURKE: I think that's all.

THE COURT: Mr. Bill.

EXAMINATION BY MR. BILL:

Q. Is your family, your husband's family, the peach growers, well known peach growers over in Glastonbury? A. Yes.

Q. He belongs to that family? A. Yes.

Q. But he is not in the peach growing business, is he? A. No.

Q. What is that? Carini Brothers? A. Not any of them are in the peach business any more.

Q. On this question of your so-called opinion that you have talked about, I understood you to say that during February and March you were out in California?

A. Yes.

Q. So you didn't read much about this case?

A. No.

Q. Involving these men? A. No.

Q. Then I understood that when you were called for duty over here, which was last night, you then did discuss it with some of the members of your family, is that what you did? A. Yes.

Q. And it was there in that discussion that you had got some impression about this case? A. I was briefed.

Q. But you had no personal knowledge yourself of the case, or you hadn't read the newspapers? A. No.

Q. Or you hadn't heard the radio? A. No.

Q. Or the television? A. No.

Q. So whatever opinion you had was simply something you gathered in talking with somebody last night? A. Yes.

Q. Might it be your husband? A. Yes.

Q. And of course you know that a man, before he may be legally convicted, has to be tried in a Court of law in this state? You know that, don't you? A. Yes.

Q. And you know that that is conducted in a formal manner and that only legal evidence is admitted for the jury to hear? You know that, don't you? A. Yes.

Q. And that is the orderly course that you would expect, is it not? A. Yes.

Q. So that anything you might have heard from your husband, that didn't convince you that these were the men and that they were guilty, did it? — Let me ask you this. I withdraw that.

MR. McDONOUGH: I'd like an answer to that.

THE COURT: He can withdraw it. You'll have an opportunity, Mr. McDonough.

Q. Your husband — Where did he get his information, do you know? A. Newspapers.

Q. And radio? A. Radio.

Q. And you knew that you were getting the impression that he got from them? A. Yes.

Q. And he was transferring it over to you? A. Yes.

Q. And of course you knew that he was not there when this crime was committed, or he didn't know anything about whether these men actually did it, other than what he read or heard on radio, isn't that so? A. That's right.

Q. So what you had was merely an impression from him, is that correct? A. Yes.

Q. Isn't it possible for you to sit in the jury box and just concentrate and pay attention only to what evidence might come into this Court here, if you were on the jury — the admissible evidence — and concentrate on it and forget anything you might have heard from your husband? And couldn't you deliverate in the jury room afterwards without letting any of that information that he might have given you, enter into the consideration of this case? A. Yes.

Q. Couldn't you do that? A. Yes.

Q. I think you said you believed in capital punishment? A. Yes.

Q. And if you sit on the jury, on this question of mental incapacity that the attorney talked about, you would listen to all sides of that question, wouldn't you?
A. Yes.

Q. And you wouldn't make up your mind until the whole case was closed on all the issues, and ponder over them and consider them very carefully and come to your conclusion on all those issues, would you not? A. Yes.

MR. BILL: Thank you.

THE COURT: Mr. McDonough.

EXAMINATION BY MR. McDONOUGH:

Q. You heard Mr. Burke's statement to the panel this morning about what a jury trial means? You recall that?
A. Yes.

Q. And you agree that it is a serious and a precious right, isn't it? A. Yes.

Q. A right to a trial by jury? And do you agree that a person who has a trial by jury should get an unbiased and an unprejudiced jury free of fixed opinions as to their guilt? A. Yes.

Q. Do you feel now that you can sit on a jury where these men's lives are at stake, after having been briefed, as you put it, and from that briefing formed an opinion of guilt, and give these men such a trial? In fairness to yourself and to them and to our jury system? There are lives at stake. Do you? It's important. It's important to them, of all people, and to our system. For the time being I'll withdraw that so you can mull it over in your mind. By "briefing" what do you mean? Your husband gave you his viewpoint of the case, as he had read it and followed it, isn't that right? A. Right.

Q. And then gave you his honest opinion of what he thought of their guilt or innocence, didn't he?
A. Right.

Q. And what was the opinion that he gave you?
A. It wasn't good.

Q. The opinion was that they are guilty, isn't that right? A. Right.

Q. And did his opinion and his reason sound logical and sensible to you? A. Well, he has a vacation coming up May 31st and he was quite forceful in his attitude.

Q. What did the vacation have to do with it?

A. He didn't want me to be on the jury.

Q. Did he convince you that these men were guilty, with sound and logical arguments and honest arguments? Did he convince you, the way you looked at his reasons, that these men were guilty? If he did, say so.

A. Not entirely.

Q. But there is a feeling of guilt that you received from the arguments that he advanced, isn't that so?

A. Well —

Q. I'll withdraw that question. Would you like to be on trial yourself in any matter where a person had had arguments of the same nature advanced to somebody going on the jury? A. Possibly not.

Q. That's just the way we feel here. So do you think, in fairness to these men, that you can sit? A. I still don't know. I really don't. I want to be honest. I want to be honest with myself and just want to be honest about it, and I really don't know.

Q. Then your answer is, you can't say that you would be able to? Is that your fair and honest answer?

A. If I were in the jury box I would have to be honest, regardless of anything I heard before.

Q. We know you would be honest, but that isn't the question.

Q. After this forceful argument that you told us about, the vigorous one — And they were sound, weren't they, that your husband advanced? A. I didn't argue. I just listened.

Q. And you came to a verdict, didn't you, on his arguments, that these men were guilty? A. No, I didn't. I just listened. I knew there was a vacation involved. That's about the size of it.

Q. And that enters into it, too, so this case won't be finished by the 31st of May? A. No.

Q. So what is going to happen to your vacation? What is going to happen to your domestic bliss?

A. Nothing. I have a very easy-going husband.

Q. Won't it upset you if he is upset and doesn't go on that vacation and you are sitting here on the trial? Won't you have it in mind? A. No. No, I wouldn't, if I had —

Q. Have you, after listening to these forceful arguments by your husband, dismissed them as having no basis to them? A. No. He read it in the paper. How could you just dismiss it?

Q. Will you dismiss them? A. Will I dismiss them?

Q. Yes. Have you dismissed them? A. Have I, or will I?

Q. Have you? Will you? Have you dismissed them now? You are being examined now? A. Have I dismissed them? No. Will I dismiss them?

Q. Yes? A. Yes.

Q. Will you? How do you know you will? What makes you sure that you will? A. Because as I said before, I'd have to be honest with myself, and if I was honest with myself then I couldn't listen to anybody else's opinion. I'd have to wait and hear the evidence itself.

Q. But how do you know you can dismiss them after you go into that jury box? A. Because I'll have to.

MR. BILL: I object to that.

THE COURT: I won't pass on it because she answered it. I don't think the answer was anything but a proper response. Go ahead.

Q. You've got an opinion of guilt now, haven't you? That's what you so testified.

THE COURT: Let her answer it. Have you got an opinion now that they are guilty or not guilty?

A. I feel that they must have been some guilty or they never would have signed the statement that they are guilty.

Q. And that came about as a result of the forceful argument to convince you of their guilt, isn't that so?

A. It was mentioned.

MR. McDONOUGH: That's all.

MR. BURKE: May I ask the lady a question?

THE COURT: Surely.

EXAMINATION BY MR. BURKE:

Q. Your husband doesn't want you on this jury, does he? A. No.

Q. And in this argument that he gave you he gave you his opinion as to what should happen to these men, too, didn't he? A. He sure did.

Q. And do you think that if you were on this jury and he was — well, wanting to go on a vacation and unable to go, that he will discuss this matter with you at home at the supper table? A. No, it won't be at home at the supper table. Not in front of the children.

Q. After the children are put to bed will he discuss the fact that he is not on his vacation because you are sitting here on the jury? A. Not too much, because he probably knows pretty much by now that I have a mind of my own.

Q. But you respect your husband's opinion, don't you?

A. Yes, I do.

Q. And his judgment? A. Yes, I do.

Q. And when he argued with you last night he apparently was quite persuasive and he did persuade you to some form of an opinion as to the guilt of these men?

A. Not that so much as that he just didn't want me to do what I felt was my duty. I could have gotten out of it from the beginning on account of the young children, but I have a conscience.

Q. I respect that. But what I would like to know respecting your husband's judgment and opinion, he already having a strong one, apparently, as to the guilt of these men and what should happen to them. Don't you honestly feel it would have an effect on your judgment and thinking? A. No.

Q. Not at all? A. No.

Q. You told me that you had an opinion of guilt and you didn't know whether or not you could sit in this jury box, believing them guilty, and at the same time according them the presumption of innocence?

A. When I walked into that box they would be innocent until proven guilty, as far as I'm concerned.

Q. You could just pull the shade on any opinion or judgment or thought that you had that they are guilty?

A. I would have to.

Q. The law says you'd have to. A. I'd have to for my own peace of mind.

Q. And you could do it? A. Yes.

Q. And would you do it? A. Yes.

Q. And you would have no trouble doing it? A. No.

Q. And you'd have no difficulty at home with a husband of opposite persuasion?

THE COURT: Don't you think you have gone into that pretty fully?

MR. BURKE: I know, Your Honor; but at the same time I know that at home, in the intimacy of the home, husbands' or wives' opinions can be pretty effective.

THE COURT: Mr. Burke, my only question was, don't you think you have covered it pretty thoroughly?

MR. BURKE: All right, Your Honor.

BY MR. McDONOUGH:

Q. This conversation took place last night? A. Yes.

Q. Less than twenty-four hours ago? And you say he expressed to you the punishment that should be meted out to them, didn't he? A. Yes.

Q. And what was that punishment that he expressed? A. He said they ought to be taken out and shot.

MR. McDONOUGH: Thank you very much. Thank you for your fairness.

THE COURT: Mr. Bill, you are first.

MR. BILL: Accepted by the State.

MR. McDONOUGH: I move the lady be excused. She has very thoroughly stated the situation. Within twenty-four hours, she testified, she has been given vigorous argument as to the guilt of the accused, and that they ought to be taken out and shot.

THE COURT: Mr. McDonough, I'll deny the motion.

MR. McDONOUGH: Accepted, Your Honor.

MR. BURKE: I'll join in the motion, Your Honor.

THE COURT: I'll deny that, too.

MR. BURKE: May I have the same exception?

THE COURT: You may. Mr. McDonough?

MR. McDONOUGH: Accepted.

MR. BURKE: Excused, Your Honor.

THE COURT: You are keeping book, too, are you not, Mr. Burke?

MR. BURKE: Yes, Your Honor. I have just run out of challenges.

THE COURT: Yes. Mrs. Carini, you have been excused. Your vacation is intact. But I have to instruct you that you must not talk about this, even with your husband, what they asked you, what you answered, or anything else, until — You mustn't talk about this and you can tell him I said you mustn't, anything that happened here, anything you said, anything they asked you, until a jury is selected and the evidence starts in this case, whereafter you may use your own judgment. Clear?

MRS. CARINI: Yes.

THE COURT: And you can say the Court told you exactly that. Don't discuss anything that happened here until a jury is selected and the evidence starts. Thank you very much.

MAY 23, 1957 - 2:15 P.M.

DAVID M. BRADLEY, having been previously duly sworn, was examined and testified as follows:

BY THE COURT:

Q. Sit down, please. The first question is easy. Are you a voter? A. Yes, I am.

Q. Keep your voice up, please. Are you married? A. Yes, I am.

Q. Do you have a family? A. Yes, I do.

Q. How many? A. Two boys.

Q. How old are they? A. Three and a half and one year.

Q. Will you tell us how long you have lived in West Hartford? A. Three and a half years.

Q. Before that where did you live? A. Four years in Hartford.

Q. And before that where did you live? A. New Haven for the rest of my life.

Q. What is your occupation? A. I am Division Employment Supervisor of the Southern New England Telephone Company.

Q. Located in Hartford? A. In Hartford.

Q. Does your wife have any other occupation than as a housewife? A. No.

Q. Have you ever done jury duty before? A. I never have.

Q. Have you ever been involved in a criminal prosecution, either as a complainant or an accused, or a witness, or otherwise, other than for a traffic violation? A. No, sir, I have not.

Q. Or any members of your family so far as you know? A. No, sir.

Q. Under our procedure in a case such as this, which is a jury case, the jury determines what the facts are from the evidence produced here in Court. Do you understand that? A. Yes, sir.

Q. But the jury must take the law governing this case from the Court, which is I. If you are selected as a juror would you do that? A. To the best of my ability.

Q. The law of Connecticut also is that these accused as they stand here, are presumed to be innocent of the crime with which they are charged, or any other crime for that matter, so far as this case is concerned, until and unless the State, by evidence produced here in Court, proves them guilty beyond a reasonable doubt. If I told you that was the law, and you were a juror, would you follow that instruction? A. To the best of my ability, I would.

Q. That involves this - that if you are selected as a juror you would have to eliminate from your consideration as a juror anything you may have read about these men, or anything you may have read about this case, or heard on the radio, or heard in general conversation, or seen on television, and you would have to start the case as a juror, extending to them a presumption which the law gives them that they are innocent, that they are not guilty of the crime with which they are charged until and unless the State, by evidence produced here in Court, proves them guilty beyond a reasonable doubt. Would you follow such an instruction? A. I think I would have to do so.

Q. This is another corollary that goes along with it. Under our law, these accused are not now, nor will be at any time during the trial, under any duty to produce any evidence to prove that they are not guilty or to remove any impression which you may have in your mind now, but the burden is on the State throughout the trial to prove, by evidence produced here in Court that they are guilty beyond a reasonable doubt. If I charged you that were the law, and it is the law, would you follow it?
A. I would, sir.

Q. Now, the law of Connecticut also is that if police officers take the witness stand and testify in this case, as they probably will, you are to test their credibility, whether or not you believe them, or the amount of weight you

would give their testimony, if any, by the very same standards as you test the credibility of any other witness who is put on the witness stand. Would you follow that instruction? A. I would, sir.

Q. If I told you further that the law of the State of Connecticut is that in your consideration in arriving at a verdict that you must eliminate from your consideration any feeling of sympathy that you might have, either for these accused or their relatives, or for the deceased or their relatives, and decide this case entirely on the evidence produced here in Court, would you follow that instruction? A. I could do that, yes, sir.

Q. Finally, if I were to instruct you that the law also is that you must not allow prejudiced or bias of any kind to influence you in arriving at your verdict, would you follow that instruction? A. Yes, sir.

THE COURT: Mr. Bill.

EXAMINATION BY MR. BILL:

Q. Mr. Bradley, do you believe in capital punishment? A. If the guilt is beyond a question of doubt, yes, sir.

Q. That is, if the law is that and the proof is beyond a reasonable doubt, and you were sitting on the jury, and the facts added up to that and it was proven beyond a reasonable doubt by the State, you wouldn't hesitate to bring in a verdict of guilty in the first degree which carries with it the death penalty? A. If I was convinced, no.

Q. There isn't any doubt but what the Court would charge you that. Would you follow that - would you follow that if that is the rule? It has to be beyond a reasonable doubt - it isn't all doubt. A. Yes, sir, reasonable doubt, I would.

Q. If it met that test and the facts warranted it, you would bring in a verdict of murder in the first degree if it was beyond a reasonable doubt? A. Yes.

MR. BILL: That is all.

EXAMINATION BY MR. McDONOUGH:

Q. You mean that if there was a doubt in your mind - a reasonable doubt - you would hesitate before your verdict - a verdict that meant the death penalty? A. If there was a reasonable doubt, sir.

Q. Have you read the newspapers regarding the activities of Taborsky and Culombe? A. To some extent, yes.

Q. Have you listened to radio broadcasts? A. Yes, sir.

Q. Have you watched it on television? A. No, I have not.

Q. Have you heard people discussing the murders of Taborsky and Culombe -- the murders they are charged with being implicated in? A. To some degree probably, but it hasn't been anything definite.

Q. Have you heard people express to you or while in your presence the opinion as to Culombe or Taborsky's guilt or innocence? A. I don't recall specifically that I have.

Q. Have you heard anyone express in your presence an opinion as to the punishment these two men should receive? A. I don't believe I have.

Q. Are you acquainted with Lt. Rome of the State Police? A. No.

Q. Or Sgt. Paige? A. No.

Q. Or Captain Hayward or Sgt. Coffey of the New Britain Police Department? A. No, sir.

Q. Are you acquainted with Dr. Bancroft? A. No, I am not.

Q. Or Dr. Waterman? A. No, sir.

Q. You have done business with none of the attorneys in this case? A. No, sir.

Q. Or as far as you know, your family hasn't?
A. No, sir.

Q. So far as the personalities involved in this case are concerned they are all strangers to you?
A. Absolutely.

Q. Now, if evidence is introduced as to one or both of these defendants which bears on their mental stability or instability, will you consider that evidence in arriving at your verdict? A. I think I would consider that evidence if I was charged by the law. I am not familiar with it to the extent you are.

Q. You would receive it under the instructions of the Court and use it in accordance with the Court instructions, is that it? A. I would try to follow the Court's instructions.

Q. In applying that evidence? A. I would.

Q. If the defense, by claims and by evidence, submitted or raised the question of the sanity of the two accused at the time of the crime, or one or both of them, and the State submitted evidence on the sanity of one or both of them, you would consider that evidence as a whole, wouldn't you? A. I would be obliged to if that situation arose.

Q. And the Court charged the jury that the defense, having raised the claim of insanity and submitted evidence to you, then the duty of the State - it was the State's duty to prove them sane - would you follow the

Court's instruction in reaching your verdict under the charge? Let us put it that way.

THE COURT: May I say to you, if you don't understand any of the questions asked, don't try to answer. I got lost on that one.

MR. McDONOUGH: I don't blame you.

Q. If the defense raised the question of their sanity through evidence and then the Court told the jury that the defense, having done that, it was the State's job to prove they were sane, would you follow that instruction and make them prove they were sane? A. As I understand it, it is the State's obligation to prove its case, and I would in that case, being charged by the Court.

Q. To prove they were sane - to make the State prove them sane? A. If the charge of the Court were there.

Q. Would you give greater consideration or weight to the testimony of a police officer than to any other citizen? A. I would not.

Q. You would not? A. No.

Q. If evidence was introduced on the mental condition of Culombe and it was allowed by the Court and he failed to take the witness stand and put on evidence on his own behalf, and the Court instructed the jury that you could consider that failure to testify as an inference, you would follow the instructions of the Court in that respect, wouldn't you? A. As an inference of his inability or his lack of capacity?

Q. Yes. A. I would try to follow the instructions of the Court.

Q. And all the evidence? A. I certainly would.

MR. McDONOUGH: That is all.

EXAMINATION BY MR. BURKE:

Q. Mr. Bradley, in this capital punishment business, you say you would follow the law as to capital punishment?
A. Yes.

Q. And as I recall it, you said you want it proved beyond any doubt that they were guilty before you would want them sentenced to death?

MR. BILL: Objection, he said reasonable doubt.

THE COURT: He said beyond a reasonable doubt.

MR. BILL: I was certain he said any doubt.

THE COURT: I will sustain the objection.

Q. What did you say about this doubt - you needed or didn't have to have on capital punishment? A. Now it is directed to the question if they had proved them guilty beyond a reasonable doubt.

Q. In order for you to vote for the death penalty verdict - a verdict of guilty of murder in the first degree without a recommendation of life imprisonment, you say all you would need is proof beyond a reasonable doubt that would satisfy you? A. Beyond a reasonable doubt, sir.

Q. Now, as you know, the law says if a man is guilty of first degree murder the penalty is death, or upon recommendation of the jury upon consideration of all the evidence as part of the verdict, they may recommend life imprisonment without hope of parole. Now, would you in your deliberating as to the verdict you would bring out, give consideration to that portion of the law? A. I think at that point it would depend on the reasonable doubt area. If there were any whisper of a doubt, I would be inclined to consider that part of the law. If there were no doubt in my mind I would consider the full sentence.

Q. Now Mr. Bradley, have you or any member of your family or close friend ever been the victim of a holdup, robbery, theft, breaking and entering or violence? A. No, fortunately, we have not.

Q. Are you related or friendly with any policemen? A. No, sir.

Q. I don't mean passing acquaintance? A. No.

Q. I mean real pals? A. No.

Q. And no State Police? A. No.

Q. Have you ever been engaged in police work? A. No, sir.

Q. Or any law enforcement work? A. No, sir.

Q. Has any member of your family? A. No.

Q. Now, you say you did read about the activities of Taborsky and Culombe? A. Yes, sir.

Q. And what paper did you read? A. Primarily the Times and the Courant.

Q. And you read stories about their alleged confessions? A. I have.

Q. And at the time you read them did you feel they were true? A. As presented in the paper I wouldn't say I openly doubted it. I didn't see any evidence of a confession based on evidence or knowledge.

Q. Well, from reading that they confessed did that influence your thinking any? A. I assumed it was accurate reporting and I assumed it to be true.

Q. Assuming that, Mr. Bradley, did it affect your thinking any? A. In what respect?

Q. Do you have any impression or belief or opinion as to the guilt or innocence of these men from what you

read in the papers? A. I have no conviction. I have read the news as news and accepted it at face value and with other evidence.

Q. Didn't it have any effect on your thinking after you read something in the newspaper to the effect that they confessed to various crimes? Would that have any influence on your thinking? A. Are you thinking of emotions?

Q. No, as to forming an opinion without other evidence at present, have you based any opinion on your reading the newspapers which stated that the men had confessed to these killings? You say you read it. I would like to know if it had any influence whatsoever on your thoughts or opinion? A. I read it as fact and accepted it as that as far as the incidents reported in the paper.

Q. Assuming then you accepted the fact the men had confessed to these killings, would that influence your opinion as to their guilt or innocence? A. Yes, it has affected my thinking as of right now without other evidence present.

Q. What is your thinking as of right now about the guilt or innocence of these men? A. My thinking as of right now and lack of any other evidence as would be produced in Court, would be that the facts are as established.

Q. Does that mean you have an opinion they are guilty or innocent, Mr. Bradley? A. I have no conviction. I have an opinion as the result of the publicity given the case that they are probably guilty.

Q. What is your opinion right now from what you know about this case, that they are probably guilty?

A. That would be correct.

Q. And you have had this opinion since reading the newspapers back when they reported the confessions?

A. Yes, sir.

Q. Would you say that this opinion is fixed in your mind as of right now, Mr. Bradley? A. I believe I can have an open mind and accept evidence as presented, and I would say I believe I can have an open mind and accept evidence as presented to the jury and weigh it and not be overwhelmingly influenced by previous reading about the case.

MR. BURKE: Would you please read my question?

(The reporter read the last question)

Q. Would you answer that question? A. No, I would not say it is a fixed opinion.

Q. Then it is an opinion which you have had up to now, but you can discard if you went on the jury? A. Yes, sir.

Q. And you can sit on the jury impartially and not be bothered by the opinion you have had for a couple of months? A. Yes, sir.

Q. And you don't feel the opinion you had and you have now would effect or influence you in the consideration of this case? A. No, sir, I don't.

MR. BURKE: I think that is all.

EXAMINATION BY MR. McDONOUGH:

Q. I have some more questions. You did have an opinion that they were guilty after reading the confessions? A. Yes, sir.

Q. Now, you haven't got that opinion today? A. I say, sir, in the light of other evidence presented, I think I can look at it on an unbiased basis.

Q. Suppose there was no other evidence presented, would that opinion still exist which you formed from reading the newspapers? A. I think the factors of evidence in Court would overcome my previous thinking.

Q. Supposing the accused offered no evidence of their innocence, would you then retain your opinion you had formed from reading about the confessions - that they were guilty? A. To the best of my ability I would consider it and all the evidence presented.

Q. The question is would you retain that opinion, yes or no? A. I think no, sir. That is a hard question.

Q. I know you are trying to be fair and accurate, Mr. Bradley. You used one expression - "I wouldn't be overwhelmingly influenced". What did you mean by that?

A. In what regard?

Q. You said, "I would not be overwhelmingly influenced". Would you be influenced to some extent?

A. By the previous publicity?

Q. By reading about the confessions. A. I would try not to.

Q. The answer has to be would you or would you not? We know you would try, but would you or would you not be influenced at all? A. I don't know if I can make a flat answer on that. I think I would not.

Q. That is the best you could do. All right. But you are not sure, are you, that you would not require evidence to remove that opinion? A. I am not certain. I think, as I said, I would be able to do it on an impartial basis.

Q. Now, we will come to this, Mr. Bradley. Mr. Burke asked or inquired along the line of the recommendation of the jury for life imprisonment instead of a verdict of first degree murder which carries the death penalty. If there was evidence warranting or evidence affecting a recommendation for life imprisonment, would you give that evidence the consideration with respect to considering a recommendation by the jury for life imprisonment?

A. Yes, I would.

Q. As a matter of fact, I think you used the words to Mr. Burke that unless you were satisfied beyond a "whisper of a doubt", you would recommend life imprisonment. Did I understand you correctly? A. I made that statement.

Q. And it was your feeling? A. Yes.

MR. McDONOUGH: That is all.

MR. BURKE: May I move to excuse this gentleman for cause?

THE COURT: I will deny the motion.

MR BURKE: May I have an exception?

THE COURT: Surely.

THE COURT: Mr. Bradley you are excused, but I have to instruct you that you are not to talk about what went on here at all, the questions asked or the answer given, until the jury is selected and evidence starts, whereafter you may use your own judgment. Do you understand?

THE WITNESS: Yes.

THE COURT: You will follow that?

THE WITNESS: Yes.

THE COURT: You are excused.

(The witness was excused)

* * * * *

LIEUTENANT LOUIS EDWARD HARPER, on the witness stand:

* * * * *

MR. McDONOUGH: Just a moment, Lieutenant, I object to such a procedure on the witness stand. The very act in itself is going to be comment if it is followed up. It is a proceeding which should be conducted in the State's Attorney's office. It is very dramatic to begin with.

THE COURT: Let us understand each other. I take it the State's Attorney makes the offer with the deletion and is doing so that there will be no question about what the witness is doing and cutting out.

MR. BILL: Yes, for identification.

THE COURT: I think in order to avoid any inference from it I will excuse the jury and let him do it on the witness stand, if that is what you want.

MR. McDONOUGH: Yes.

THE COURT: The jury will retire to the jury room and the alternates also.

(The jury was excused at 11:22 A.M.)

MR. McDONOUGH: (In the absence of the jury): I object, Your Honor—I object to Your Honor's ruling that it should be done in the courtroom, and object to Your Honor's statement made in the presence of the jury as it will carry an impression to the jury that there is something awesome or gruesome going to be cut away from the picture. This is a procedure which the State's Attorney should have done in his office and should make the offer accordingly. If it meets the rule of evidence it will be admitted, but this is a dramatic way of doing it in front of the jury. I want to object to what has been done.

THE COURT: The record will show your position on it.

MR. BURKE: May I have an exception?

MR. BILL: I want to explain why it has to be done this way for the record. I can't take any paper that is marked for identification and tamper with it and do that up in my office and cut it up and come down here and try to take something out of whatever it is that has been offered for identification. That is self-evident.

MR. McDONOUGH: There is an answer to that. The Exhibit marked for identification could have been withdrawn.

THE COURT: You are objecting to it?

MR. McDONOUGH: Yes.

THE COURT: Now, will you take the scissors—

MR. BILL: Before that is done, I notice the part that is to be cut out is the part which is marked for identification.

THE COURT: Why not have it cut out and have it marked again after the cutting is done. Have it marked as a double marking.

THE WITNESS: May I ask a question? You want what cut out?

MR. BILL: Just around the form of the body.

THE WITNESS: This is his coat.

MR. BILL: Well, the clothing—right there.

(The witness complied.)

THE COURT: Has he completed it?

THE WITNESS: Yes, I have, sir.

THE COURT: Take the scissors from him, Mr. Bill. Call the jury.

MR. McDONOUGH: Just a moment. May I examine the witness?

THE COURT: About what?

THE COURT: Yes.

MR. McDONOUGH: May I ask what the State offers now?

MR. BILL: I haven't offered anything yet.

THE COURT: That is what I was wondering.

MR. McDONOUGH: I assumed the witness was going to offer what was cut.

MR. BILL: I will offer this, to save time—to save the jury running in and out—, but I want to ask one question. I started to ask him and he shut me off.

MR. McDONOUGH: I didn't mean to do that.

BY MR. BILL:

Q. This you just cut off—will you hand it to me? That is the part you cut; which is now—strike that—that is the part you cut just now on the witness chair from State's Exhibit B for identification, is it not? A. Yes, sir.

MR. BILL: Now, I will offer it.

EXAMINATION BY MR. McDONOUGH:

Q. Lieutenant Harper, is this what is now being offered a true representation of a photograph that you took on the night of December 15th at the gasoline station in New Britain, yes or no?

MR. BILL: I object to that.

THE COURT: I will sustain it, he doesn't have to answer that yes or no.

MR. McDONOUGH: An exception, please.

THE COURT: Certainly.

Q. Is this what is now offered a true representation of what you took at Kurp's gasoline station—the picture you took in Kurp's station on the night of December 15, 1956?

MR. BILL: Objection.

MR. McDONOUGH: Claim it.

THE COURT: It is obviously not—it is a part of it.

MR. McDONOUGH: I want it for the record. This is a new offer being made.

THE COURT: But it is a part of this exhibit.

MR. McDONOUGH: I want the witness to testify to it.

THE COURT: He can't answer your question. It isn't the entire picture and we know it isn't. I will sustain the objection.

MR. McDONOUGH: Exception.

THE COURT: Certainly.

MR. BURKE: May I have an exception?

THE COURT: Yes, and to the previous ruling.

Q. Showing you what is being offered as an exhibit, what is that picture of? A. That is a picture of a body.

Q. And where did this picture come from?
A. Right here.

Q. We don't know where here is. A. From this section of the picture—from State's Exhibit B.

THE COURT: For identification?

THE WITNESS: For identification.

Q: In other words, it isn't the full picture you took, is it—it is a cutout of a picture you took, isn't it?

A. Yes.

Q. The answer is yes.

MR. McDONOUGH: I object if the Court please, first on the ground that it is not a true representation of the photograph that the Lieutenant took that night. It isn't a question of whether or not it is a part of a photograph that in itself was not admissible. Any exhibit that is not admissible in itself because parts of the exhibit make it inadmissible—the whole exhibit becomes inadmissible. It is damaging and it is prejudicial by the inadmissible parts. It is a distortion—that is what it amounts to—and to be very frank, Your Honor, and I use this word sincerely, not merely for emphasis, this is a horrible thing to show to the jury. This shows a picture of the dead man on a stretcher that was not on a stretcher after the alleged shooting. This is a stretcher that was provided by the police officers, and the body had been moved from the position it apparently had been in and it is our claim that it was not done by any of the acts alleged of the accused. This offer shows a man on a stretcher, and the act that the accused had nothing to do with, the putting or placing on the stretcher of something for perhaps medical treatment or for the purpose of removing the body of the dead man. It is offered, as the State says, merely for the purpose of establishing who the dead man was.

MR. BILL: No, that's not so.

THE COURT: Let him finish.

MR. McDONOUGH: That is as I understood it. If it is being offered for that purpose, I submit that is not necessary. There is no question in my mind, and I believe and

hope your Honor will agree with me, that there is a way of proving who the two dead men were—not to show this picture. This is an awful thing. It is like a picture only because of its horrible aspects that might have been cut out of something for children—a picture of a body on a stretcher owned by the police and placed there by the police and not by any act of the accused. There is something there—it looks like a jacket, I guess that he is wearing, that was placed there by the police or somebody. I object seriously.

MR. BURKE: I will object on the ground that it is not revelant to the issues here. There is no purpose as far as I can see that the State has yet furnished to us except that they wish to identify the body, and I submit from the law we gave to Your Honor this morning, where the gruesomeness of a picture overweighs the reason for its being introduced is not to be introduced. We have a man here with blood on his head and it is a gruesome thing. If it is for the purpose of identifying the man or for the purpose of showing he is dead, there are other ways of doing it without prejudicing the jury with the gruesomeness of that photograph, and for those reasons added to those of Mr. McDonough, I object.

MR. McDONOUGH: May I inquire of the Court, because apparently from what Mr. Bill said a moment ago, I misunderstood the purpose of this offer. I understood it to be to prove that this is the dead man—to prove that it is the man who is dead. May I inquire again through the Court what the purpose of the State is?

THE COURT: It is to prove it is a dead body, isn't it?

MR. McDONOUGH: For that reason, it is not offered. That whole picture has been excluded because of the defects in the whole picture in itself. This is only making it worse.

THE COURT: No, it was excluded because there were things in the picture which were not admissible before.

MR. McDONOUGH: But the position of the body has been changed. This body was not in that position when it was found. This is taken in another room and in a different position.

THE COURT: I understand, and I understood that when I ruled on it before and indicated the picture was not admissible because there were inadmissible features about it, and it was suggested that they remove it and that has been done. Now, I think it is admissible.

MR. McDONOUGH: But there still exists the claim on our part that Your Honor has sustained, that the body is not in the position. It is in a newly created position.

THE COURT: You have made your statement and I don't agree with it. Is there anything further?

MR. BILL: I would like to correct a statement that Mr. McDonough made. I offered it to prove the corpus delicti, plus the fact of identification. I made that statement and it is more on the question of the corpus delicti. I don't claim it is in the same position and never have. That is the body of the man we claim was—the dead body of this man taken from the boiler room by Captain Kelly, an officer.

MR. McDONOUGH: I want it for the record that we claim it is a posed photograph. I believe, if Your Honor please, it was testified to by Captain Kelly, that this body, when he first saw it was alive.

THE COURT: Well, the record shows whatever it shows. I am going to admit the exhibit.

MR. McDONOUGH: May I have an exception?

THE COURT: Certainly. Call in the jury and the alternates.

MR. McDONOUGH: May the part that has been excluded become a part of the record?

THE COURT: It is already—Exhibit B for identification.

MR. McDONOUGH: In other words, that still remains for identification?

THE COURT: Yes, that is the reason I proceeded this way.

Bring in the jury.

(The jury was recalled at 12:35 P.M.)

THE COURT: In the presence of the jury they should be told that this part of the picture was removed and has been offered as an exhibit for the purpose of proving the corpus delicti, and for the purpose of the record it has been objected to and has been overruled and exceptions noted, and this may now be marked Exhibit B.

(Cut out photograph marked State's Exhibit B.)

* * * * *

CASIMIR ZYLA, on the witness stand:

* * * * *

Q. Did you see at the hospital morgue the uncovered bodies of these two men? A. Yes, sir.

Q. Showing you State's Exhibit P for identification, can you identify that for us? A. Yes, sir, that is the body of Daniel Janowski.

Q. And where was that taken? A. At the morgue at the New Britain General Hospital.

Q. And you knew that man for ten years? A. Yes.

MR. WRIGHT: I offer that as a full exhibit.

MR. McDONOUGH: May I ask the purpose of it?

MR. WRIGHT: The purpose is to show the corpus delicti and show the points of entry of two bullets.

MR. McDONOUGH: May it please the Court, that is not necessary. It isn't revelant or material to prove the State's case. It can be done through the medical examiner who can testify or any other doctor that performed an autopsy on the body of the person who is shown in this exhibit when they found from the wounds, and that such and such resulted from the wounds.

This officer said he saw the bodies of the men in the gasoline station and that he knew them and they were dead. If there were no pictures taken at all the State would have no difficulty proving that claim. This is merely and solely and deliberately done by the State for the purpose of inflaming this jury and causing sympathy for the deceased's relatives, which Your Honor has already cautioned them against. This is to create sympathy for them. This offer is made for the purpose of creating prejudice and bias against these defendants on trial, and it isn't serving the purpose the State's Attorney states it is. It can be proven in many, many other ways, and I object to it.

THE COURT: Do you care to add anything, Mr. Burke?

MR. BURKE: No, I will join in the objection, and would just state, as I said this morning, this doesn't go to prove the corpus delicti. The testimony is already in. This is just an addition, and I agree with Mr. McDonough, it is for the purpose of adding something gruesome to this which will prejudice in some fashion the jury against the men on trial.

MR. McDONOUGH: May it please the Court, there could be some purpose in offering other pictures of the men who have been killed when their bodies were found and where they were found to be and the position of them and

showing the clothes they had on. I can see some justice in that offer, but I can see no justice in this case. These bodies are stripped and they are horrible looking pictures. It isn't necessary.

THE COURT: Do you care to be heard, Mr. Wright?

MR. WRIGHT: Just to add this, Your Honor: The cause of death will come out through these bullet holes. I think it is very necessary for those to be shown.

THE COURT: May I see the exhibit?

I will overrule the objection and admit the exhibit.

MR. McDONOUGH: Exception, Your Honor.

THE COURT: Certainly.

MR. BURKE: I was going to ask for an exception.

THE COURT: Surely.

(State's Exhibit P marked as a full exhibit.)

MR. McDONOUGH: Might I call Your Honor's attention for the record—it probably should have been interposed at the time before, but we will offer evidence to show that the doctor testifying at an inquest did it without using such a picture as to the cause of the death, and that can be done here.

THE COURT: The record will show your remarks. Mark it a full exhibit. I think it is a good place to stop.

Escort the accused from the courtroom, please.

The jury may be excused and the alternates may be excused.

Recess, Sheriff.

(Recess at 3:30 P.M.)

MAY 29th, 1957. 3:50 P.M.

THE COURT: Bring in the accused, sheriff.

(Accused present.)

THE COURT: All right, bring in the alternate jurors and the jury, please.

(Jury and alternates present.)

THE COURT: Mr. Wright, you were about to pass the exhibit to the jury.

MR. WRIGHT: Yes, Your Honor. State's Exhibit P has been admitted, as I understand.

CASIMIR ZYLA, on the witness stand;

DIRECT EXAMINATION BY MR. WRIGHT: (RESUMED.)

Q. Now, Detective Zyla, I understand you to testify that when you arrived at the hospital with the body of Janowski, the body of Kurpiewski was already there?

A. Yes, sir.

MR. McDONOUGH: You said "the bottle".

THE COURT: I don't think that he did, Mr. McDonough. I understood the same as he did. Go ahead, Mr. Wright.

Q. And was this body also disrobed? A. Yes, sir.

Q. In your presence? A. Yes, sir.

Q. Showing you Exhibit O for identification, can you identify that picture for us. A. Yes, sir.

Q. And what is that?

A. Edward Kurpiewski.

Q. As he was in the hospital morgue room?

A. Yes, sir.

MR. WRIGHT: I offer that as a full exhibit in the Court please.

MR. McDONOUGH: The same objection, same reasons as the other exhibit.

THE COURT: All right, Mr. McDonough.

MR. BURKE: I'll object to it, Your Honor, for the same reasons we set forth to State's Exhibit P.

THE COURT: May I see it first, before I rule on it. I will admit the exhibit.

MR. McDONOUGH: Exception.

THE COURT: Certainly.

MR. BURKE: Exception, Your Honor.

THE COURT: Certainly. Exhibit O is a full exhibit.

(Photograph previously marked State's Exhibit O, for identification received in evidence as a full exhibit "State's Exhibit O".)

* * * * *

ARNOLD J. ZENGA, on the witness stand;

* * * * *

MR. McDONOUGH: I agree with Mr. Burke. That is all that I have to say.

THE COURT: All right. Recall the jury and the alternates.

(Jury and alternates present.)

THE COURT: I will overrule the objection and admit the exhibit. Exhibit T.

MR. BURKE: Exception.

THE COURT: Surely.

MR. McDONOUGH: May I have an exception?

THE COURT: Surely.

(Hat with visor received in evidence and marked "State's Exhibit T".)

* * * * *

THERESA QUATTROPANI, a witness called by the State, having been sworn by Mr. Coburn, testified as follows:

BY THE ASSISTANT CLERK:

Q. Your full name? A. Theresa Quattropani.

Q. And your address? A. 21 Coleman Drive.

Q. In New Britain? A. Hartford.

DIRECT EXAMINATION BY MR. BILL:

Q. Where do you live Mrs. Quattropani? A. 21 Coleman Drive, in Hartford.

Q. And you will speak up, will you not, so that the jury can all hear? That's 21 Coleman Drive? A. Right.

Q. In Hartford? A. Right.

Q. And is that in a project? A. Yes, Rice Heights.

Q. And how long have you lived there? A. Two years in March, it was.

Q. You and your husband? A. Yes.

Q. Is there a family? A. Three children.

Q. And whether or not you know Arthur Culombe? A. Yes.

Q. Arthur Culombe? A. I know him.

Q. You know him? A. Yes.

Q. How long have you known him? A. Well, just to see him since I lived there. They were there before I moved in.

Q. Where does he live in relation to you? A. Directly across the street at 20 Coleman Drive.

Q. At 20 Coleman Drive, and you are opposite?
A. Yes.

Q. On the street? A. Yes.

Q. Now, do you remember December 15th, 1956?
A. Yes.

Q. And what was there about that day that you recollect?

MR. McDONOUGH: I object to the form of that question, Your Honor. Many things she recollected, I suppose, that have nothing to do with this case.

MR. BILL: I'll ask specifically, if you want to have me.

THE COURT: I take it that he is objecting to this question. I'll sustain it.

Q. Do you remember December 15th, 1956? A. Yes.

Q. And why do you recollect that particular day?
A. We had a bad ice storm that day and it rained all through that night.

Q. Were you home in the afternoon? A. Yes.

Q. Did you see Arthur Culombe that day? A. Yes.

Q. Was that in the afternoon? A. Yes.

Q. Did you see somebody with him? A. Yes.

Q. Who? A. Taborsky.

Q. Who, who? A. Joseph Taborsky.

Q. Joseph Taborsky. Do you see him in the courtroom? A. Yes.

Q. Whereabouts? A. Right there.

Q. Sitting at the table here (indicating)? A. Yes.

Q. How about Arthur Culombe, do you see him here? A. Yes.

Q. And whether or not you saw them together that day? A. I did.

Q. Under what circumstances? A. I saw them drive up in the car in front of my house.

Q. In front of your house and as they drove up what happened? A. I saw them remove a TV set from the back seat of the car.

Q. And then what? A. I saw them take it out of the car and go upstairs to his apartment.

Q. Whose is his apartment? A. Culombe's apartment.

Q. And where were you when this was going on? A. I was at my front window.

Q. You were at your front window? A. Inside.

Q. And what caused you to notice the operations?

MR. McDONOUGH: I will object.

THE COURT: I will sustain the objection.

Q. Was there anything particular that caused you to notice them?

MR. McDONOUGH: Objection.

THE COURT: I will sustain the objection.

Q. As you sat there were you doing anything special?

A. No, I had just happened to go and look out the window.

Q. And as you looked out the window— A. I saw the car pull up and saw them get out and go to the — open the door to the rear seat, and I was curious.

Q. You were curious? A. Yes.

Q. And so you watched the full operation? A. Yes

MR. BILL: Your witness.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. What time was this approximately? A. About two o'clock in the afternoon.

MR. McDONOUGH: That is all.

THE COURT: Mr. Burke?

CROSS EXAMINATION BY MR. BURKE:

Q. You say you saw Joseph Taborsky there?
A. Yes, he got out of the car.

Q. Had you ever seen him before? A. No, I hadn't seen him before.

Q. How did you know it was Joseph Taborsky?
A. I watched him and after I saw all the pictures in the papers I recognized it was him at the time.

Q. You knew Culombe? A. Yes.

Q. But you didn't know Taborsky? A. No.

Q. Never saw him before in your life, did you?
A. No.

Q. Who told you or who showed you a picture and said it was Taborsky? A. I followed his picture in the paper.

Q. Who pointed out to you that man as Joseph Taborsky? A. I just read his name on the front and then I recognized him.

Q. When did you see this picture? A. Shortly after they were arrested.

Q. Then you recognized that back in December that particular day and that particular time and that Taborsky was there? A. Yes.

Q. You had never seen him before? A. No.

Q. Not at all? A. No.

Q. How far back from the street is your house?

A. About from here to where you are standing — from where I am to where you are standing.

Q. And which side of the car did he get out of?

A. The right-hand side, the passenger side in the front.

Q. And that is the side away from you? A. On my side.

Q. Then he went to the rear of the car? A. To the back seat.

Q. He went to the back seat. He didn't have to get out to go to the back seat, did he? A. He got out and, you know - he got out.

Q. What kind of a car was it? A. It was a two-door.

Q. So he got out of a two-door car and went to the back seat?

A. They lifted up the seat and the TV set was back in the rear seat—it was on the seat.

Q. You are positive that the man with Culombe was Taborsky? A. Yes, I am.

Q. What kind of clothes did he have on?
A. I don't remember that.

Q. What kind of a hat? A. I don't believe he wore a hat.

Q. What kind of a coat? A. I don't know.

Q. You don't know what kind of clothes he wore, but you were able to identify his face? A. Yes.

Q. And you had a clear enough view of that?
A. Very clear view.

Q. What time was it? A. About two in the afternoon.

Q. And it was raining? A. I think so.

Q. Were your windows wet? A. No.

Q. You were able to see through them without any trouble? A. Yes.

Q. Any curtains on your windows? A. My blinds were up.

Q. What is that? A. I had blinds.

Q. Venetian blinds? A. Yes.

Q. And you were able to identify somebody from that distance you had never seen before from a picture you saw later? A. Yes.

Q. Who came to see you about this? A. About what?

Q. About your identification of this man? A. No one came to ask me to identify him.

Q. So that you called the police? A. No, they questioned all the neighbors.

Q. Who was that? A. The State Police, I believe.

Q. And they came to see you and did they bring a picture with them? A. No.

Q. When they came to see you what did they ask you?

A. They asked me if I had seen Taborsky at anytime in the neighborhood.

Q. They asked nothing more than that? Did they have a picture with them? A. No, sir.

Q. No picture at all? A. No.

Q. But you knew it was Taborsky because you saw his picture in the paper? A. Yes.

Q. And you were positive it was the same man?

A. I am positive.

Q. How tall was this man? A. Oh, about five-eleven or six feet.

Q. Five foot eleven or six feet? A. Yes.

Q. How about how heavy he was? A. I couldn't tell.

Q. Was he fat, skinny or heavy set? A. He wasn't skinny—he was heavy—rugged built.

Q. Rugged build? A. Yes.

Q. You don't know whether he had a hat on?

A. No.

Q. Do you know what kind of a haircut he had?

A. No.

Q. But do you know it was he? A. I later identified—you know—found out when I saw the pictures in the paper my attention was brought to it.

Q. Your attention was brought to what? A. To the whole thing, and then I remembered I had seen the two of them that day.

Q. You are positive you could remember you saw them together that same day? A. Yes.

Q. And it was exactly the same man? A. Yes.

Q. You realize how important this is? A. I do.

Q. And you want us to understand that you could look through the rain and could see a man you had never seen before?

A. It wasn't raining heavily. I could see him just like I am seeing you now, it was that close.

Q. And from a picture in the paper you could identify him? A. I already saw him. At the time I didn't know who it was, but when I saw the picture in the paper it brought my attention to it and I recognized it was the two of them I saw that day.

Q. Do you wear glasses? A. No.

Q. When did you first see the picture in the paper—in March sometime? A. Shortly—right after they were arrested.

Q. When was that? A. The first picture that was in the paper.

Q. When was that? A. On a Monday, I think it was.

Q. Was it March, February, April or when? A. It was February, I think, I am not sure.

Q. You don't know when you saw the picture. Do you know what paper you saw it in? A. The Hartford Times.

Q. What was the picture like—what was it of?
A. It was just his face.

Q. Just one picture and just showed his face?
A. Yes.

Q. Didn't show any clothing? A. Just the top.

Q. You didn't recognize any clothing you had seen before? A. No, not in the picture.

Q. He didn't stand there looking directly at you, did he? A. I don't believe he saw me at all.

Q. I mean he didn't look to see? A. No, he didn't.

Q. You got a side view of him, didn't you?
A. Pardon?

Q. When he was getting in or out of the car you saw him from the side, didn't you? A. He turned and I saw him.

Q. How long did he turn for? A. Just a second.

Q. And that is all the view you got of his face was just that one second turn? A. I watched them all the time they were in the car.

Q. I know that, but the only time you saw him full face was when he turned for that second to look at you?
A. No, I saw him full face when he was walking away.

Q. And he was walking away from you? A. They walked away and forward again.

Q. When he walked away he wasn't facing you, was he? A. No, not directly facing me.

Q. And all you were seeing was a side view while he was walking away or the man was walking away? A. I did see his full face.

Q. For the second? A. Maybe it was a second, yes.

Q. And from that second--that's the only time you saw him full face, and the rest of the time was from the

rear or from the side as he was walking away carying a TV set? A. Yes.

Q. And from that one flash you were able to identify him without question? A. I didn't identify him at the time, I didn't know who he was.

Q. Later on you were able to identify him without any question as that man you saw? A. Yes.

Q. Well, what caused your mind to get such a clear picture of him? A. After I read it in the paper and read the whole story and was asked if I had ever seen him before I recalled of that day and I said that was the man I had seen there definitely.

Q. Even though you only saw him for the second, you were very clear and definite in your information and were positive that he was the man that you saw? Do you want us to believe that? A. Yes.

Q. What side of the car did they take the TV Set out of? A. The right side of the car, the passenger side.

Q. What is that? A. The opposite side from the driver in the back seat.

Q. Is that the right side? A. The right side.

Q. And was it parked so that the right side was toward your house? A. Yes.

Q. And both of them were leaning in to get out the TV set? A. Yes.

Q. And they pulled it out? A. Yes.

Q. And carried it across the street? A. Yes.

Q. And the only time you saw his face was that one flash second? A. I saw his face all during the operation.

Q. From the side you saw it—not full face? A. He

turned a couple of times to move the set around to get it in a position to carry it out.

Q. And you saw him through the window of the car? A. I saw him out of the car.

Q. And in the car, too? A. I saw them get out of the car.

Q. And when you looked out your window you saw he was there trying to get the TV set out of the back seat? A. Pardon?

Q. After they got out of the car you say they went to the back seat to get the TV set out? A. Yes.

Q. This man was on the passenger side? A. Yes.

Q. And he got out and you looked at him full face for a second and then they got in to get at the set? A. Yes.

Q. You didn't see his full face then? A. Not as he bent over to get the TV out.

Q. And then when they pulled the set out you saw it from the side? A. I saw it as they were getting the set out of the car—his full face.

Q. Then did they walk away from you? A. They walked along the back of the car and across the street.

Q. What kind of a set was it, a portable or a console? A. It was a small console.

Q. A floor console—you mean a table model? A. It looked like a table model.

Q. Well, was it a console or a table model? A. A small console.

Q. Which could stand up? A. Yes, which could be taken for a table model also.

Q. And all these details you recalled to your mind

after you saw his picture? A. Yes.

Q. And did the police come to see you or did you call them? A. They came and questioned the neighbors.

Q. And you gave them this story? A. Yes.

Q. And you gave them all of these details about seeing them? A. I told them just what I had seen.

Q. And you also told them that you could identify without any question? A. Pardon?

A. I told them that that was the man I had seen that day. I definitely knew.

Q. How about the children—were they around that day? A. They were in the house.

Q. Were they in the window too? A. I don't believe so.

Q. Nothing distracted you at all from looking out the window? A. I just happened to go to the window and saw the car pull up and was standing there looking and I saw them.

Q. That was all you saw of him — just the one flash view of the face? A. Yes.

Q. Do you know what kind of a car it was? A. I think it was an Oldsmobile—black.

Q. You think, or do you know? A. I know.

Q. You know it was an Oldsmobile and a black one. Are you positive of that, too? A. Yes.

Q. You had seen the car before? A. Yes.

Q. Do you know whether the window in the door of the car was up or down? A. I don't know.

Q. You didn't see that? How about the window in the back, was that up or down? A. I don't know.

Q. Do you know what kind of tires the car had?
A. No.

Q. Do you know if there were any marks on the car?
A. No.

Q. You think he did? A. I feel he did, yes, sir.

Q. Any dents or not? A. I don't know.

Q. You don't know what kind of clothes he wore?
A. No.

Q. Or what kind of clothes Culombe was wearing?
A. All I can remember—he was wearing—I think it was a plaid cap.

Q. But you don't know what kind of clothes—you have no recollection of that? A. No.

Q. And your recollection of the two dates is what makes you positive that was Taborsky you saw? A. Yes.

MR. BURKE: That is all.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. A plaid cap—one of these Ivy League caps—that these college boys wear? A. It was a cap.

Q. Plaid? A. Wool, I believe.

Q. That was what Culombe was wearing—this fellow down here? A. Yes.

Q. That you see these young fellows in college wearing—was that what it was? A. It wasn't like the young fellows wear.

Q. It was a flashy affair, was it? A. I think it was a wool cap.

Q. Plaid? A. Yes.

Q. Tell me, did he have a leather jacket on? A. I don't remember.

Q. He might have or might not? A. Yes.

Q. You were questioned by the State Police shortly after the arrest and their pictures were in the papers, is that right? A. Yes.

Q. Did a State Policeman or woman question you? A. There was a man and a woman.

Q. Do you know their names? A. No, I don't.

Q. Did you give them signed statements? A. Yes, I did.

MR. McDONOUGH: That is all.

MR. BILL: No questions.

THE COURT: You may step down.

(Witness excused.)

FRANK J. FRONCZEK, a witness on behalf of the State, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Frank J. Fronczek.

Q. Address? A. 133 Millbrook Drive, East Hartford.

DIRECT EXAMINATION BY MR. BILL:

Q. Mr. Fronczek, what is the nature of your business? A. I am a TV salesman and service.

Q. Where are you employed or located? A. East Hartford, 1263 Main Street.

Q. You are in the TV business? A. Yes, sir.

Q. How long have you been in the business?
A. About three and a half years.

Q. Whether or not you know Arthur Culombe of Hartford? A. Yes.

Q. Do you find him here in the courtroom? A. Yes.

Q. Where? A. Sitting down in back there.

Q. At the table? A. Next to the table.

Q. Now, whether or not prior to December 15, 1956 you had done any business with Arthur Culombe?
A. Yes, sir.

Q. What was the nature of the business? A. I sold him a TV set and did some repairs for him on TV sets and radios.

Q. Now, whether or not on or about December 15, 1956 you did some business with Arthur Culombe?
A. I sold him a used TV set.

Q. Under what condition?

MR. McDONOUGH: How is that material and relevant? I won't press the objection, but I wonder how it is material and relevant.

THE COURT: He is asking what the purpose is.

MR. BILL: The purpose is to show the transaction and to show the surroundings of the sale.

THE COURT: I will overrule the objection. Answer the question.

A. It was an agreement to pay so much a week.

Q. I show you this slip and ask you if you recognize that? A. I do.

Q. As what? A. As a sales slip, a duplicate of one, I gave him the original.

Q. On what date? A. December 15, 1956.

Q. Who made out that statement? A. I did.

Q. And was that done in the regular order of business? A. I know him.

Q. I mean, is that the way you do business? A. I do.

Q. When you sell a TV set— A. On this occasion, I did, yes.

Q. And you used that slip? A. Yes.

Q. In that transaction? A. That's right.

MR. BILL: I offer that.

THE COURT: Is there objection?

MR. McDONOUGH: May I see it?

THE COURT: Surely.

MR. BURKE: I object to it; it is immaterial and irrelevant whether he bought a television set and how much he paid or how he paid for it.

THE COURT: Overrule the objection.

MR. BURKE: May I have an exception?

THE COURT: Certainly.

You may mark it V.

(Sales slip marked States Exhibit V.)

MR. BILL: I want to see if I can read it.

Q. I guess I will have the witness read it. Will you

read that so that the Court and jury can hear? Start out at the top.

A. (reading) "Frank's Radio and Television. Tel. JA 8-8935. 1263 Main Street, East Hartford. Television, Radio, Appliances. Sales and Service. The date is 12-15-56. Name—Culombe, address 20 Coleman Drive, Hartford. Used TV set $50. Tax 1.50. Total $21.50. Trade-in $20. Balance $31.50. Paid on account $10. Balance $21.50."

Q. Is there something else on there? A. On the same slip it was paid 12-17-56, the following Monday. The balance was paid, $21.50.

Q. Did you make some arrangements for payment on December 15th for that used set that you sold to Culombe?

A. Yes.

Q. What were the arrangements? A. There were arrangements made to pay me $5.00 a week.

MR. BURKE: I object to this, Your Honor, as immaterial and irrelevant.

THE COURT: As far as you are concerned I will instruct the jury that this evidence has no bearing on the case of State v. Taborsky as of the present time, in any event, and is being admitted solely in the case of State v. Culombe, unless you claim differently.

MR. BILL: No, I claim it on this basis.

THE COURT: On this basis that I indicated?

MR. BILL: Yes, against Culombe.

Q. So that there is no need to pass on your objection?

MR. BURKE: Thank you, Your Honor.

Q. And I understand that he made full payment on the following Monday, December 17th, 1956?

A. That is right.

Q. Of $21.50? A. That's right.

Q. What time was that that you sold that set to him, do you know?

A. That was around noon hour, around twelve o'clock, something like that.

Q. On December 15th, 1956? A. December 15th.

Q. What was done with this used TV set that was sold to Columbe after it was sold by you to him?

A. It was put in his car.

Q. Who put it in the car? A. I helped him carry it in.

Q. What kind of car was it, do you know?

A. A sedan, four door sedan, but the name I don't know offhand. He's got two cars. He had an Oldsmobile first and he had a Chevrolet after that.

Q. You don't remember what the car was?

A. I don't remember what the car was, I don't recall it.

Q. And where was the TV set put? A. In the back seat.

Q. And then he went off? A. I think that he hung around a few minutes and then took off. I am not sure.

MR. BILL: Your witness.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. What are the pencil markings on the bottom of State's Exhibit V, Mr. Fronczek?

A. I marked it "Pd", paid 12-17-56.

Q. Those are your markings? A. That's right.

Q. Are there any other papers relative to this deal in your possession? A. I think that there is another one besides that.

Q. What kind of a paper is that?
A. About the same as that. Sales slip.

Q. A copy? A. A copy of that.

Q. Any other papers? A. That's all.

Q. Now, this was sold on the basis of $5.00 a week, wasn't it? A. Verbal order.

Q. Anything—nothing in writing of Culombe's on this paper, is there? A. No, sir.

Q. You have nothing with Culombe's writing on it at all, have you? A. No, sir.

Q. Culombe can't write, can he? A. I never asked him.

Q. So you don't know? A. I don't know.

MR. McDONOUGH: That's all.

THE COURT: Mr. Burke, do you have any questions?

MR. BURKE: I have no questions.

THE COURT: You may step down.

MR. McDONOUGH: One more question, please.

THE COURT: Step back.

BY MR. McDONOUGH:

Q. You haven't even got Culombe's name on any piece of paper, have you?
A. I've got his last name, Art Culombe.

Q. Arthur Culombe? A. The one I wrote down myself.

Q. But you have nothing, no writing of his at all, have you? A. I don't recall. I might have.

MR. McDONOUGH: That's all.

MR. BURKE: I would like to ask one question.

CROSS EXAMINATION BY MR. BURKE:

Q. What kind of a set was this? A. Sylvania, used set.

Q. Was it a table model? A. Console.

Q. Big one? A. Seventeen inch.

Q. And you say that it was a four door sedan you put that set into? A. I believe that it was a four door sedan, yes.

Q. Not a two door car? A. A four door.

Q. You are sure of that? A. Yes. He got in the back to help me put the set in.

Q. But you recall that it was a four door car, not a two door car? A. I helped him carry the set in and I remember that, a four door.

Q. You are sure it was a four door? A. Pretty sure it was a four door.

Q. Well, you helped him put it in, didn't you? A. We put it in the back door, but I didn't look to see if there was another door in the front or not.

Q. A car wouldn't have a door in the back and none in front, would it? A. I didn't push no seat forward.

Q. It had to be a four door? A. It had to be a four door.

Q. Into which you put this set? A. Yes.

MR. BURKE: That's all.

THE COURT: Anything further, Mr. Bill?

MR. BILL: No.

THE COURT: You may step down.

MR. BILL: Mrs. Harris.

IRENE HARRIS, a witness called by the State, having been sworn by Mr. Coburn, testified as follows:

BY THE ASSISTANT CLERK:

Q. Your full name? A. Irene Harris.

Q. And your address? A. 18 Coleman Drive.

Q. In Hartford? A. Hartford.

DIRECT EXAMINATION BY MR. BILL:

Q. What is your address now, did you say? A. My present address is 18 Coleman Drive.

Q. 18 Coleman Drive? A. Yes.

Q. That's in Rice Heights? A. That's right.

Q. And on December 15th, 1956 what was your address and where did you live? A. 20 Coleman Drive; A-2.

Q. A-2? A. Apartment A-2.

Q. 20 Coleman Drive? A. That's right.

Q. And that's in Rice Heights, too? A. Yes.

Q. The same project? A. Yes.

Q. And whether or not, Mrs. Harris, you know Arthur Culombe? A. Yes; he was my neighbor.

Q. He was your neighbor? And do you find him here in the Courtroom? A. Yes.

Q. Whereabouts? A. He's sitting on my left, in the gray suit, in the back.

Q. In the back? A. Yes.

Q. How long have you known him? A. I'd say approximately two and a half years.

Q. And how long, up until the time you last moved —Or let's put it this way: How long did you live at 20 Coleman Drive, A-2? A. Oh, about seven years and three months.

Q. And up until that date? A. Until February of this year.

Q. February, 1956? A. That's right.

Q. And you were living there on December 15th, 1956? A. Yes.

Q. That's February, 1957. I'm sorry. Whether or not you know Joseph Taborsky? A. Yes; I've seen him there several times.

Q. Do you find him in the Courtroom? A. Yes.

Q. Where? A. He's sitting with the first policeman, on my left.

Q. Now, whether or not—That's withdrawn. Where did Arthur Culombe live in relation to you? A. Across the hall.

Q. Across the hall? A. Yes.

Q. And whether or not you had the main entrance, the same main entrance, common entrance? A. Yes.

Q. And did he have a number to his apartment? A. His was B-2.

Q. His was B-2? A. Yes.

Q. What floor is that on? A. Second.

Q. Second floor? A. Yes.

Q. And it was a common entrance. And how did you get up to the second floor? A. Up a flight of stairs.

Q. Side stairs? A. No. There's one main entrance. The stairs were in the middle.

Q. What did you say? A. There's one main entrance. The stairs go right up.

Q. And only one set of stairs? A. That's right.

Q. And as you went up, what side of the staircase were you? A. I was on the right.

Q. You were on the right? A. Yes.

Q. And Culombe was where? A. The left.

Q. What does your family consist of and did it then? A. Four children.

Q. Living there with your husband? A. Yes.

Q. What was his name? A. John Harris.

Q. Now, Mrs. Harris, you say you know Joseph Taborsky? A. Yes.

Q. And when did you first see him, if you remember? A. My first recollection of Joe Taborsky was in 1951.

Q. In 1951? A. Yes.

Q. And when recently had you seen—That's withdrawn. Have you seen Joseph Taborsky within the last several months? A. In November.

Q. Of what year? A. Of 1956. Last year.

Q. Last November? A. Yes.

Q. And whereabouts? A. At Mr. Culombe's. I've seen him visiting there from November.

Q. From November? A. Yes.

Q. You mean constantly or periodically? A. No; mostly when I saw him it was on the weekends, whenever I did see him.

Q. Weekends? A. Yes.

Q. And whether or not you remember December 15th, 1956? A. Yes.

Q. And what was there about December 15th that you remember?

A. Well, December 15th we were visiting my mother, and it was a bad ice storm, and my husband said, "We'd better get home." All the lights were out and it was bad driving. And when we pulled up to our house Taborsky and Culombe were sitting in a gray car, trying to get it started, and we had passed them to drive in front of them to park.

Q. Let's get a little more detail there. Where did you go, you and your husband? A. Over to my mother's.

Q. Where does your mother live? A. 27 Martin Street.

Q. Martin Street? A. Yes.

Q. That's in the north part of Hartford? A. Yes.

Q. And you are down in the southwest? Rice Heights is in the southwest part of Hartford? A. Yes.

Q. What is it, five or six miles away? A. I couldn't say.

Q. You don't know? A. No.

Q. But one is in the south part and the other is in the north part, and you drove up there, did you?

A. No. I don't drive. My husband.

Q. Your husband—you drove with him? A. Yes.

Q. Did your children go? A. Yes.

Q. And when did you leave to go up there?
A. Oh, it was early afternoon when we had left.

Q. And when did you arrive back to Coleman Drive?
A. Between eight and nine o'clock.

Q. Between eight and nine o'clock in the evening?
A. Yes.

Q. And you say you saw a car parked? A Yes.

Q. And when you saw that car parked was your car in motion? A. Our car was moving; yes.

Q. Was it moving in the same direction that the parked car was facing, or in the opposite direction?
A. Not at first. We were not moving in the same car—I mean in the same direction.

Q. Did you pass that car? A. We passed him at first.

Q. Going in what direction? A. The opposite direction.

Q. From what it was facing, or the same direction?
A. The opposite direction.

Q. And where was this car parked in relation to your side of the street, 20 Coleman Drive? A. It was parked not quite in front of our apartment.

Q. It was on that same side of the street? A. Yes.

Q. But you went by—That's withdrawn. In going by that car did you see anybody in it? A. Not at that time.

Q. After you had gone past the car, your husband was driving? A Yes.

Q. What did he do? A. He turned up Allen Drive, backed out.

Q. Before you get there—Going along, which way did he turn to get into Allen Drive? Left or right?

A. He took a right.

Q. He took a right? A. Yes.

Q. And then what did he do? A. He backed out, and when he backed out the car was on an incline, and that way our headlights flashed into the car that Taborsky and Culombe were sitting in.

Q. Did you see them? A. Yes.

Q. Did you recognize both of them? A. Yes.

Q. And then what did you do after you had turned around? A. We drove past them and parked right in front of their car.

Q. And what did you do then? A. My husband helped me and the children to the door and he went back to the car.

Q. You didn't go back there? A. No.

Q. Are you positive that you saw Joseph Taborsky and Arthur Culombe together in that car? A. Yes.

Q. Do you know what kind of a car it was? A. I can't tell you the make. I can only tell you it was gray. I don't know the makes of the cars.

Q. I want to straighten out one thing. You say your husband went back to the car. Your car was parked there and this other car. Do you know which car he went to?

A. He went back to the car that Mr. Culombe and Taborsky were sitting in.

MR. BILL: Thank you. Your witness.

MR. McDONOUGH: No questions.

THE COURT: Mr. Burke?

CROSS EXAMINATION BY MR. BURKE:

Q. You didn't go back to the car, did you? A. No, I did not.

Q. So you didn't go back to check if that was Taborsky sitting in that car? A. No, I did not.

Q. And the only view you got of him was when your husband backed the car out, the lights hit the rear window of the other car; right? A. Yes. And they were on my side.

Q. How far away was that? A. Oh, I couldn't say the distance.

Q. Would you say a hundred feet? A. Oh, no; I don't think so.

Q. More than that? A. No.

Q. Fifty feet? A. Could be.

Q. It was dark that night? A. It was dark.

Q. It was raining? A. It was raining, but not very hard at that time.

Q. Drizzling? A. Drizzling.

Q. And kind of misty, wasn't it? A. It was drizzling.

Q. And the windows of the car, they were clouded up, were they? A. My side wasn't clouded, because I have a habit of leaving the window partly cracked.

Q. How about the rear window of the car? That would be clouded up and wet, wouldn't it? A. I wouldn't know. I hadn't noticed.

Q. If it was drizzling wouldn't the rear window of the car be wet? A. Yes, I suppose so.

Q. And your windshield wipers were going, were they? A. Yes.

Q. So the lights of your car, as it backed away, went through the rear window of this car you saw in front of Culombe's place? A. Yes.

Q. And you say that you saw Taborsky in there through the wet windows? A. Yes; through my side of the window, on the passenger's side.

Q. You were able to see through the wet windows of this car and see him and Culombe sitting in the car?
A. Yes, I did.

Q. And you saw that only for the flash of the time that your husband backed out of the driveway and the lights hit the car? A. Yes.

Q. And that made you certain that it was Taborsky?
A. I was certain; yes.

Q. As you saw these two, who was driving the car?
A. No one was driving. They were trying to get the car started. Mr. Culombe was behind the wheel.

Q. And how do you know they were trying to get the car started? A. Well, it kept making that—like they couldn't get it turned over.

Q. And was Taborsky bending down or sitting up straight, or what was he doing? A. He was just sitting there.

Q. Just sitting there? A. Yes.
Q. And when you saw him through the back window you got a view of his head, didn't you? A. Yes.

Q. And from the back of his head through a wet window you could identify him? A. I passed that car

Q. Yes? A. We passed him on my right.

Q. Yes? A. And I saw him sitting there.

Q. Let me get back where you were backing out of this driveway. You backed out of this driveway—

A. It isn't a driveway. It's a street.

Q. Backing out of the street your car was on a little incline, you said? A. When you back down it's on an incline. The rear end is facing Flatbush Avenue. So my husband had to swerve a little to get back in front of our house, and as he swerved the headlights flashed into their car.

Q. Through the back window? A. I wouldn't say it was through the back window.

Q. It couldn't have been through the side windows, because you were behind the car, weren't you? A. We weren't directly behind the car.

Q. You were behind to the right or left? Which was it? A. We turned in right.

Q. So that as you backed to turn to go the same direction that car was facing, your lights went into that car?

A. Yes.

Q. The windows were wet? A. Yes.

Q. And your husband started right up, didn't he? He just didn't stand there with the lights on that car, did he?

A. He didn't stand there, but he was at a stop.

Q. Then he proceeded to go again? A. Yes.

Q. And for that flash minute you could see through a wet window, through the fog and the mist and the drizzle, into the other car and definitely identify somebody sitting in there? A. Yes, I could.

Q. And it was more than fifty feet away? A. I couldn't be definite about the amount of feet.

Q. So you are positive who was in the car then?
A. When the lights flashed in; yes.

Q. When you passed you looked in again? A. Yes.

Q. There were no lights in the street? A. The lights were out.

Q. There were no lights inside Culombe's car?
A. No.

Q. The inside of his car was dark? A. Dark.

Q. And your car came up— A. I passed their car.

Q. You say you looked from your car into his car?
A. Yes.

Q. Through the wet window again? A. Yes.

Q. Two wet windows—his and yours? A. Mine wasn't foggy though.

Q. But wet? A. It was wet.

Q. Wet and at night? A. Yes.

Q. And you could look through the window of your car and look past Culombe? A. I saw two people sitting there, one Mr. Culombe in back of the wheel and Taborsky next to him.

Q. Taborsky was sitting next to Culombe? A. Yes.

Q. And as you looked and he went by, he would be on the other side of Culombe? A. Yes.

Q. And you would have to see by Culombe to see the other person? A. Mr. Culombe was leaning forward in the car and Taborsky was sitting back.

Q. So that when you went by you looked across the head or behind the head of Culombe and saw Taborsky?
A. I looked directly in the front.

Q. But Taborsky wasn't looking at you, was he?
A. No.

Q. And the inside of the car was dark? A. Yes.

Q. And yet you could make a positive identification?
A. I believe it was them.

Q. You believe it to be? A. Yes.

Q. But you couldn't be positive, could you, under your oath right here and now? A. I can be positive it was Mr. Culombe sitting behind the wheel—under oath.

Q. How about Taborsky—on your oath can you tell us?
A. From his profile—from what I could see, yes.

Q. You believe it to be? A. Yes.

Q. But you don't know? A. Not if you put it that way, no.

Q. That is the way I put it. That is all.

MR. BILL: No further questions.

THE COURT: Step down, Mrs. Harris.

(Witness excused.)

MR. BILL: Shall I start another one?

THE COURT: I think so.

JOHN HARRIS, a witness on behalf of the State, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. John Harris.

Q. Address? 18 Coleman Drive, Hartford.

DIRECT EXAMINATION BY MR. BILL:

Q. You are the husband of the woman who just testified? A. I am.

Q. And you are living together so you are at the same address? A. Yes, 18 Coleman Drive.

Q. She testified that on December 15, 1956 and for some time previous to that you lived at 20 Coleman Drive, A-2, is that correct? A. Yes.

Q. What is your business, Mr. Harris? A. I work part time at the Mt. Sinai Hospital, and also in the plating room at the Royal Typewriter, 3:30 to 12:00.

Q. How long have you been at these jobs? A. I have been out at Mt. Sinai about four and a half years and at the Royal Typewriter ten years.

Q. Whether or not you know Arthur Culombe? A. Yes.

Q. Do you see him in court? A. Yes, I do.

Q. Where is he? A. He is sitting at the rear end on the left.

Q. How long have you known him? A. About two and a half years.

Q. You were neighbors in this apartment, as your wife said? A. Yes.

Q. Do you know Joseph Taborsky? A. Well, I have only seen him twice.

Q. Do you see him here in this courtroom? A. Yes.

Q. Whereabouts? A. He is sitting directly across from the officer there.

Q. At the table? A. Yes, sir.

Q. When did you first see him to know him? A. The first time I saw him was the 15th of December.

Q. Of what year? A. 1956,—the wife and the kids and I were returning from my mother-in-law's, and as we approached the house from Brookfield Street into the back of the project, there was this grey 1939 La Salle parked, I would say, not directly in front of the doorway there, and as we approached the car, my headlights flashed inside the car, and then as I pulled into—

Q. Well, your headlights, you say, hit the car?
A. Yes.

Q. What about that—did you see any occupants?
A. I recognized two figures in the car as we passed, and as I pulled in Allyn Drive and just backed, my headlights was directly inside the car.

Q. Did you see anyone then? A. Yes.

Q. Could you identify them at that time? A. Yes, I could.

Q. Who? A. Taborsky and Culombe.

Q. Where was Culombe sitting in the car? A. Well, Culombe was sitting on the passenger side of the car.

Q. And where was Taborsky? A. On the driver's wheel.

Q. And what did you do with your car? A. Well, I pulled up to the house and parked and let the wife and kids out, and in fact, went up to the door with them, and knowing Culombe because of the times I have had trouble with my automobile and he suggested what to do, I said I am going back and see if I could help him.

Q. You say,—before you came back where did you go?
A. I walked up to the doorway with my wife and kids.

Q. And did you leave them? A. Yes.

Q. Then where did you go? A. Walked back to the La Salle Culombe and Taborsky were in.

Q. To this car where the two men were? A. Yes.

Q. And to which side did you go, the passenger side? A. The passenger side.

Q. Who was sitting there? A. Culombe.

Q. Did you look into the car? A. I did.

Q. Was the door open? A. No.

Q. Did you put your head into the car? A. No, I approached the car and Culombe lowered the window, and I asked him if I could give him a shove.

Q. Did you look into the car? A. Yes.

Q. Did you see the two men as you looked in? A. Yes.

Q. Did you recognize them? A. Yes, sir.

Q. As whom? A. Taborsky and Culombe.

Q. And you say you asked Culombe if you could help? A. Yes.

Q. With a push? A. Yes.

Q. Did he answer that? A. Yes, he said he didn't think there was any use because their car was parked so close to the curb, and I wouldn't have a chance of it at the time.

Q. Did you stay there any longer? A. No, when he said that I went upstairs.

Q. You say there was another time you saw Taborsky? A. Yes.

Q. Was that later? A. Yes, about the 22nd.

Q. After December 15? A. Yes.

MR. BILL: Your witness.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. You said you knew Culombe? A. Yes.

Q. And you offered to help him because he had helped you before? A. Yes.

Q. A pretty good neighbor? A. Very nice.

MR. McDONOUGH: That's all.

CROSS EXAMINATION BY MR. BURKE:

Q. Mr. Harris, you know Culombe pretty well, don't you? A. Well, not very well.

Q. Well enough to know that he was on the passenger side of that car that night? A. Yes.

Q. No question about that in your mind? A. None at all.

Q. Windows of the car wet, were they? A. I imagine. they were.

Q. And you say there was another man behind the wheel of that car? A. Yes.

Q. What was the marker number — Connecticut marker number? A. I wouldn't know.

Q. And you had never seen Taborsky before?
A. No.

Q. Before that night? A. No.

Q. Did Culombe introduce you to him? A. No, he did not.

Q. Didn't you say you saw the other fellow?
A. Yes, sir.

Q. Was it dark inside the car? A. Not too dark be-

cause the lights aside the house was on, and the lights in the hall shines out in the streets.

Q. But it was dusky in there? A. I don't know about dust.

Q. It wasn't bright.

THE COURT: He thought you said "dusty".

Q. It was kind of dark in there? A. Visibility was good enough to identify them, if that is what you mean.

Q. You had never seen him before? A. No.

Q. In fact, you have only seen him twice in your life, as I understand it? A. That's right.

Q. But you were able to recognize he was the man sitting there? A. I did.

Q. Did you see a full view of his face?
A. No, just the profile.

Q. And from the profile you recognized him as the man? A. Well, I saw the profile as I approached the car and after coming toward the car when I was passing it—I saw the full view of his face then.

Q. As you went by the car you saw a full view of the face? A. Yes.

Q. Wasn't he sitting in the car trying to start it?
A. Yes.

Q. Did he look toward you? A. No, but my headlights was directly in their windshield.

Q. As you came up? A. Yes.

Q. He was looking down? A. No, I didn't say that.

Q. He was looking up? A. I would say he was looking straight ahead.

Q. And as you came up the road your windshield wipers were working? A. Yes.

Q. How about his windshield? A. No.

Q. It was wet? A. Sort of misty, yes.

Q. Were his headlights on? A. No, they were not.

Q. And your headlights came up and hit— A. Hit the windshield, yes.

Q. And behind that windshield was a face? A. Yes.

Q. And you know that water on a windshield distorts a view, doesn't it? A. Somewhat.

Q. It isn't a clear view? A. No.

Q. And yet you are certain you looked into that windshield and saw a man and can identify him positively?

A. Yes.

Q. Positively? This is an important issue.

A. Yes. I understand.

Q. You are certain. Did you hear your wife testify that Culombe was driving the car? A. Yes, she said that.

Q. She was not right? A. No, it was a mistake.

Q. So that the man she identified as a passenger was Culombe? A. Yes.

Q. But you are certain it was Taborsky behind the wheel? A. Yes.

Q. Was this from a side view you got of him?

A. Yes, when I approached the car, I spoke to Mr. Culombe and he talked to me.

THE COURT: Mr. Burke, I don't want to rush you; you should have more time, but I think we should stop here.

Escort the accused from the courtroom.

Ladies and gentlemen, while that is going on, I will give you your usual caution. You will not talk to anyone about this case, nor allow anyone to talk to you about it. If there is anything in the papers tonight or tomorrow morning, please do not read it, and should there be anything on radio or television, please pay no attention to it, and when you come in tomorrow morning at ten o'clock, you will report to your jury room and the alternates will report to their room. You may be excused until tomorrow morning at ten o'clock.

Adjourn court, Sheriff until tomorrow morning at ten o'clock.

(Adjournment at 5:00 P.M.)

* * * * *

FREDERICK MORAN, a witness on behalf of the State, being first duly sworn by Mr Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Frederick Moran.

Q. Your address? A. Clinton, Connecticut.

DIRECT EXAMINATION BY MR. BILL:

Q. You are employed by the Connecticut State Police Department?

A. Yes, sir.

Q. How long have you been an Officer in that department? A. On my fourth year, sir.

Q. Officer, on February 23, 1957 in the afternoon were you assigned to some particular duty? A. I was.

Q. With some other Officer? A. Yes, sir.

Q. And his name? A. Officer Gene Griffin.

MR. McDONOUGH: I didn't get the other name.

THE WITNESS: Officer Eugene Griffin.

Q. And as a result of that assignment, did you go to some particular place? A. I did, sir.

Q. Where was it? A. I went to the home of Mrs. Joseph Taborsky, 226 Park Terrace, Hartford.

Q. That is the mother of Joseph Taborsky, the accused? A. That is right, sir.

Q. At 226 Park Terrace, Hartford? A. Right, sir.

Q. And you two Officers went together? A. Yes, sir.

Q. In a cruiser? A. That is right, sir.

Q. When you got to this address, what did you do? A. We arrived at Park Terrace at approximately 2:08 P.M., and as we were parking near the home of Mrs. Joseph Taborsky at 2:10, Joseph Taborsky and a male companion walked down the front steps of his mother's home.

Q. Did you later learn who that was?

MR. McDONOUGH: I object to it - what he learned.

THE COURT: He can testify whether he did or not.

He can answer yes or no. I will overrule the objection. Yes or no.

THE WITNESS: Yes, sir.

Q. Do you see that man here in Court today?
A. Yes, sir.

Q. Who is it? A. Arthur Culombe.

Q. The accused? A. Yes, sir.

Q. And where did you say they were coming from?
A. They were coming down the front steps of Mrs. Taborsky's home on Park Terrace, Hartford.

Q. And what did they do? A. They got into a 1949 green Chevrolet.

Q. And where was that parked? A. Directly in front of the home of Mrs. Taborsky.

Q. And where were you in relation to that car?
A. Approximately ten car lengths in back of it.

Q. And whether or not you or Officer Griffin - did you do something then? A. Yes, sir, we got out of our car and walked toward the 1949 Chevrolet.

Q. And when you got to that car did you find somebody in there? A. I found Arthur Culombe in the driver's seat and Joseph Taborsky was just getting into the passenger side of the car.

Q. What kind of a car was it? A. A 1949 green Chevrolet.

Q. And whether or not you talked to either one or both of them? A. I talked to Joseph Taborsky.

Q. What did you say to Joseph Taborsky? A. I asked him - told him that Lieutenant Rome of the State Police would like him to come down to State Police Headquarters - he wanted to talk to him.

Q. Did he reply? A. Yes, sir.

Q. What did he say? A. He was glad to come - he was willing to come down, he said.

Q. Did you talk to Culombe? A. No, sir.

Q. Was that all the conversation at that time?
A. That's right, sir.

Q. Were any directions given? A. Yes, sir, he was told he could come down with his friend in his car if he wished to, and he said he would.

Q. What did you do then? A. We went down to State Police Headquarters.

Q. I mean right then - you were at his car talking to him - what did you do then? A. He agreed to go down and we got back into our car.

Q. And then what happened? A. We started, and they came down to State Police Headquarters with us.

Q. They following you or you following them?
A. They followed us down.

Q. That is the State Police Headquarters directly across the street here on Washington Street? A. Yes.

Q. What happened when you got there? A. Arthur Culombe stopped in front of the building and Joseph Taborsky got out and went in.

Q. Went into the building? A. Yes, sir.

Q. Alone? A. Well, with me.

Q. What was that? A. He came in with me.

Q. And what happened to Culombe? A. He drove off.

Q. He drove off? A. Yes, sir.

Q. And who was in your car at that time?
A. Officer Griffin and I were there.

Q. Did you attempt to follow him? A. I didn't, no, sir.

Q. Did Officer Griffin? A. I believe he did, yes, sir.

Q. You don't know? A. No, sir.

Q. But Culombe didn't come into the Headquarters at that time? A. No, sir.

Q. And you went in with Joseph Taborsky, and what happened in there at Police Headquarters? A. We went directly to Lieutenant Rome's office and contacted - I contacted Lieutenant Rome by phone and told him Joseph Taborsky was here.

Q. Whether or not you left Taborsky there?
A. No, I stayed right with him.

Q. Was he ultimately turned over to Lieutenant Rome? A. Yes, sir.

MR. BILL: Thank you, that is all.

THE COURT: Questions, Mr. McDonough?

CROSS EXAMINATION BY MR. McDONOUGH:

Q. Well, Culombe drove off alone in his car?
A. Yes, sir.

MR. McDONOUGH: That is all.

THE COURT: Mr. Burke?

CROSS EXAMINATION BY MR. BURKE:

Q. You say it was a 1949 green Chevvie? A. Yes, sir.

Q. A two-door or four-door? A. Two-door, sir.

Q. Did you tell Taborsky what Rome wanted to see him for? A. No, sir, I didn't.

Q. You just told him Rome wanted to see him?
A. Yes, sir.

Q. And he went with you? A. Yes, sir.

Q. And he followed you fellows? A. That's right, sir.

Q. Did you tell him he had to go down there?
A. No, sir.

Q. After you got to Police Headquarters did you leave him in Rome's office? A. No, sir, I stayed right with him, sir.

Q. And you say you went into the building with him?
A. Yes, sir.

Q. You were waiting for him out in front? A. We drove into the driveway and he got out in front.

Q. Where did he get out in front? A. On the street.

Q. And you were waiting there for him? A. Yes, sir.

Q. And you took him into the building? A. That's right, sir.

Q. And that was on February 23? A. Yes, sir.

Q. What day of the week? A. Saturday.

Q. What time was that? A. When we went into the building?

Q. Yes. A. Approximately 2:15 P.M.

Q. February 23 at about 2:15 P.M.? A. Yes, sir.

MR. BURKE: That is all.

* * * * *

DONALD PAIGE, a witness on behalf of the State, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN

Q. Your full name? A. Donald Paige.

Q. Address? A. 42 Sumac Street, West Haven.

DIRECT EXAMINATION BY MR. BILL:

Q. You are employed by the State Police Department? A. Yes, sir.

Q. How long have you been a member? A. Almost nineteen years.

Q. What is your present rank? A. Detective Sergeant.

Q. Now, Sergeant Paige, on February 23, 1957 were you assigned some duty in connection with Arthur Columbe? A. Yes, sir, I was.

Q. What was that? A. I was to go to his home at 20 Coleman Drive with Officer Robert Reimer and bring him back to the barracks.

Q. What time was that? A. When we got to the home it was about two-thirty P.M.

Q. And when you got to the home what did you do when you arrived there? A. We knocked at the door and Mrs. Culombe answered the door and Arthur was in the toilet at that time.

Q. What happened—did you go in the house?

A. We were situated by the door and I told Mrs. Culombe I wanted to see Mr. Culombe, and we waited for about five minutes and finally she went over and rapped at the door of the toilet and told him that there was somebody waiting for him.

Q. Did you hear anything at that time? A. Yes, during the time we were waiting there we could hear some sort of metallic noises coming out of the toilet.

Q. How long did you wait for him? A. For about five minutes.

Q. And when he came out what happened? A. When he came out I told him Lieutenant Rome would like to see him at the barracks and he said okay and put on his jacket and his hat and came along with us.

Q. And where did you take him to? A. State Police Headquarters on Washington Street, Hartford.

Q. Did you stay with him at that time? A. Yes, I did.

Q. Did anybody else—Lieutenant Rome? A. He saw Lieutenant Rome.

Q. Did you talk with him—you and Lieutenant Rome?

A. No, we stayed there only a short time at the barracks and then I took Arthur Culombe and Joseph Taborsky, who was there at the time, along with two other Officers, and we went to Coventry and then to Rocky Hill and back to the barracks after stopping to have our supper.

Q. Did you do anything that day in connection with this case? A. Yes, when we came back to the State Police Headquarters I sat down and talked to Culombe for awhile and I questioned him as to whether or not he had any guns at home and he said that he had seven or eight at his house. He was a gun collector, and he agreed to go to his home to turn the guns over to us.

Q. And what did you do as a result of that talk?

A. Officer Carlberg and I and Culombe went to his home and when we got into the living room of the house he asked to go back to the toilet and I let him go in there and he remained in there for a moment and came out again and instead of returning to where I was in the living room he went down across the hall and into a bedroom. When I saw where he was going to I went right in after him, and he was standing there just closing the drawer of a bureau and in his right hand he had two guns, a .25 and .38. I asked him where he had got the guns and he said he had had them in in the toilet, that he had been cleaning that morning and it hit him that he was afraid the children was going to get at them. Then it was that we found a .25 clip of cartridges with bullets in it from the drawer he had just closed and he took that out and handed it over. Then he went to a wardrobe in the same room and in this wardrobe there was a small safe. I asked if there was anyone else who had the combination to the safe, as it was locked, and he said he was the only one had the combination. Out of this safe he took six guns. Then I had Officer Carlberg recheck the safe and he took out a plain paper bag which contained

three red handkerchiefs. We also got some ammunition out of the safe. There was three boxes I believe, and one small casing with some bullets in it.

MR. BILL: Have you got the two boxes there, Captain Chameroy?

Q. Showing you this envelope which was passed to me by Captain Chameroy containing two boxes, I take them from the envelope and ask you to examine them and see if you can identify them? A. These are part of the box I took from the Culombe' home and turned over to Captain Chameroy.

Q. Have you any identification mark you put on those boxes or on the contents? A. Yes, I have my initials on the box—"D. P."

Q. Did you open up the box at the time? A. I just looked at them and saw there were bullets in it.

Q. Will you look in there now? A. There are bullets in this box.

Q. Are they the same type of bullet in the box you marked? A. That is right.

Q. How about the other box? A. These are Westerns .32's.

Q. Is that what they were? A. Yes, one box had those.

MR. BILL: I will take them separately. I will offer this.

MR. McDONOUGH: Unless the State's Attorney claims he will connect it up as revelant to the case of Culombe, I object.

MR. BILL: I will definitely, Your Honor.

THE COURT: There is no objection?

MR. McDONOUGH: No.

THE COURT: Of course, it has no reference at all to the Taborsky case. I assume you are going to offer—

MR. BURKE: Yes, I am going to object, Your Honor. I will just make a plain objection and later on I can move to strike it out.

MR. McDONOUGH: I think I ought to broaden my statement as to the case on trial. The case has a multitude of of angles, and unless the State will claim that these bullets were used in connection with the shooting of Kurpiewski or Janowski in New Britain, I will object. If the State so claims, I will not object.

MR. BILL: I will tell the Court definitely what I claim — that these two boxes contain what is known as Lubiloid bullets and I will claim that the two boxes will be connected up as being of the same type of bullets that are here in the jars for identification that were taken from the brain — just before I say that, Captain Chameroy—

(Conversation between Messrs. Bill and Chameroy.)

MR. McDONOUGH: Let us look at it this way — if the State's Attorney will merely state — I don't want to go into it in front of the jury — just that he will connect these bullets with the killing of Culombe or Janowski, I will not object.

THE COURT: You mean Kurpiewski — you said Culombe.

MR. McDONOUGH: Yes. And if he does not connect it I will move to strike.

MR. BURKE: And I will renew my objection.

THE COURT: Yes. What I want to say to the jury —I will say it again, and later on when we come to the

charge in the case, if we do, I will then explain it more in detail, but there will be offers of evidence, because we are trying two cases here, State versus Arthur Culombe and State versus Joseph Taborsky. Now, there will be perhaps other situations develop as this one is developing. This evidence is offered strictly in the case of State versus Arthur Culombe and it isn't being offered in the case of State versus Taborsky, and is being received only as evidence in the case of State versus Culombe this time. That is the only purpose for which it is being offered, is it not?

MR. BILL: That is why I was going to make a specific statement.

THE COURT: I understand, but that is true, is it not —it is being offered solely in the case of State versus Culombe?

MR. BILL: I think ultimately this will also come into the case of State versus Taborsky.

THE COURT: Rather than the Culombe case?

MR. BILL: Both

THE COURT: But in any event, I want to say further that whatever develops in the evidence, there will be portions of the evidence that will have to be considered with reference to only one case and you will disregard it as regards the other case, and as we go along from time to time I will try to point that out to you, but in any event, in the charge at the end of the case I can tell you what the law is and I will instruct you. I just want you to understand, and I am sure you do, what we are doing in this regard.

MR. BURKE: Let me make this statement for the record. As I understand, Mr. Bill is putting in the exhibits to be used in the Taborsky case, and if that is so then I want to renew my objection more forceably because I don't think they are admissible at this time to the issue here. There

is no question — no connection whatsoever, and if he wants to tie it up later on he could do it certainly by having them put in as exhibits for identification, not full exhibits, and then if they are to be tied up, he can do it with the witness who is tying them in. Otherwise I think it would be prejudicial.

MR. BILL: I am not here to have Mr. Burke direct me as to how to try my case, and I am offering it as a full exhibit and I claim it.

MR. BURKE: I don't claim to be telling him how to try his case. He can do a pretty good job without me.

THE COURT: You have both exchanged pleasantries, but let us get back to the evidence.

MR. BURKE: I certainly have a duty here and I think it is objectionable and not admissible at this time and is not tying Taborsky in with anything.

THE COURT: I don't think you need to belabor it, Mr. Bill. I will not allow them in as against Taborsky.

MR. BILL: I will withdraw the offer and ask that they be marked for identification, Your Honor.

THE COURT: It may be marked for identification — State's Exhibit X.

(Box of bullets marked State's Exhibit X for identification.)

Q. Sergeant Paige, this other box that you have in front of you, will you open that? Or first off, looking at the box can you identify it? A. Yes, sir, this is the box I took from Arthur Culombe's home on February 23rd.

Q. And will you open the box and look at the contents? What do you find? A. There's bullets in here.

Q. Do you know the kind? A. They are WRA thirty twos—or B&W thirty-twos.

Q. Are those the same contents in the box that you received down there at Culombe's house? A. That's right, sir.

Q. Is that correct? A. That's right, sir.

Q. So that is the box and the bullets that you took in your possession at that time, at Culombe's house?
A. That's right, sir.

MR. BILL: May that be marked for identification?

THE COURT: "Y" for identification.

(Box of bullets marked "State's Exhibit Y, for identification.")

Q. What did you do then after you took those into your possession? A. We came back to headquarters and turned over to Captain Chameroy.

Q. You mean these two boxes that you just identified?
A. Those were turned over to Captain Chameroy along with guns.

Q. Anything else? A. Along with the guns that we brought from the house?

Q. How many? A. Eight of them.

Q. Did you do anything other than that in this case?
A. No, sir.

Q. Now, during the next several days — this was on Saturday — I will withdraw that. When did you complete your investigation as far as Saturday the 23rd, was concerned? A. It was shortly after I came back from the Culombe home.

Q. And Culombe came back with you? A. That's right.

Q. And did you do anything there at headquarters

on the investigation after you got back? A. No, not that evening. I think I spoke to Culombe for a short while, a very short while.

Q. And where did these two men stay that night, do you know? A. I believe that they stayed at State Police Headquarters.

Q. Did you confer with them after that, say Sunday, the next day? A. Sunday I talked to Culombe for a while on another matter. Also Monday and Tuesday.

Q. When you say another matter, other than the New Britain matter that you talked about? A. That's right, sir.

Q. And what, Monday and Tuesday? A. Sunday, Monday and Tuesday.

Q. Then you talked with him on Wednesday, did you not? A. Wednesday, yes, sir.

MR. BILL: Your witness.

THE COURT: Mr. McDonough.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. You talked to him a long time, didn't you, Sergeant? Saturday to Wednesday? A. I talked to him for a short while each day.

Q. You say that he stayed at police headquarters Saturday night. He was kept at police headquarters, wasn't he? A. Yes.

Q. He was in custody, wasn't he? A. He was placed under arrest that night.

Q. What time was he placed under arrest, Sergeant? A. I don't know; Lieutenant Rome placed him under arrest.

Q. What day? A. Saturday.

Q. Saturday. Then he was taken into custody Saturday afternoon, and sometime on Saturday he was placed under formal arrest? A. Yes, sir.

Q. And he has been in custody ever since, hasn't he? A. Yes, sir.

Q. Now, do you know that when he was first asked to come to headquarters, State Police headquarters he came of his own free will, drove his own car? You know that, don't you? A. You mean when he was with Taborsky?

Q. Yes. A. I heard about it later, what I heard in this court.

Q. And later on you found him at his home? A. That's right.

Q. So you assume, don't you, that he returned to his home and he was there when you arrived in the afternoon at about two-thirty? A. That's right.

Q. That's the same afternoon that he had been at State Police Headquarters earlier and left Taborsky there? That's so, isn't it? A. That's right.

Q. After leaving State Police Headquarters he had plenty of time to escape, for at least a half an hour, didn't he? When he was allowed to drive away, as far as you knew? You know that, don't you? A. Yes, sir.

Q. But he went to his home where you found him? A. That's right.

Q. And he was in the bathroom when you knocked at the door and were admitted by his wife? A. That's right.

Q. He lives at 20 Coleman Drive, with his family, does he? A. That's right.

Q. And what does his family consist of? A. I believe that he has two children.

Q. Young children? A. It seems to me that there is a daughter around thirteen and a younger daughter.

Q. And his wife? A. That's right, sir.

Q. The four of them live there? A. That's right.

Q. What kind of a home do they have? By rooms, I mean? A. Well, it is a regular project building. It has got a living room in it, a bedroom—two bedrooms, I believe and a bathroom and a small kitchen.

Q. How long were you at Culombe's home on Coleman Drive? A. Which time do you mean?

Q. When you went to pick him up? A. Just the five minutes that I waited for him.

Q. You were back at his home later, weren't you?
A. Yes, sir, that evening.

Q. When you took him into custody on Saturday afternoon with Officer Reimer, I think you said? A. Robert Reimer.

Q. You said that he put on his jacket and left the house with you and Officer Reimer? A. That's right.

Q. And went to State Police headquarters. What kind of jacket was it?
A. I don't remember. It was a short jacket of some sort.

Q. Brown leather? Well, it was a leather jacket anyway, was it? A. I am not sure.

Q. A short jacket? A. It was a short jacket. I remember him putting it on.

Q. You later took him, you said, to Coventry and Rocky Hill, and then you stopped and had dinner, did I understand you to say? A. That's right.

Q. Where did you have dinner? A. In Wethersfield?

Q. Where in Wethersfield? A. At a diner, Tina's Diner, in Wethersfield.

Q. Now, was Culombe under arrest at that time when he was being taken to Coventry and Rocky Hill?

A. Actually I know they consented to go. Whether they had been placed under arrest at that time I am not sure.

Q. They didn't have much choice, did they? You say that they consented to go? A. That's right.

Q. What choice did they have? Supposing they said "No". What are you smiling about?

A. They would have gone anyway.

Q. They would have gone anyway? A. That's right.

Q. So they didn't have much choice. Now, were they provided with attorneys? A. No, sir, I didn't provide them with any.

Q. Were they asked if they wanted attorneys? A. I don't know.

Q. Were they told of their rights, Constitutional rights? A. I didn't tell them.

Q. You didn't hear anyone else tell it to them?

A. No, sir, not that I know of.

Q. That was as you described to the State's Attorney, part of your investigation, these trips? A. That's right.

Q. And this questioning? When you went to Culombe's home to take him into custody what was his condition? Was he drunk or sober? A. He was sober.

Q. Did he do any drinking at the time? A. You mean while he was with me?

Q While you were there with Officer Riemer?
A. No, sir.

Q. Now, if he were drunk you would not have questioned him, would you? You wouldn't question a drunken man, would you? A. I don't think you would get very good answers from him.

Q. In the course of the questioning did Culombe have anything to drink, in the course of the investigation?
A. Not that I know of. Not while he was with me.

Q. Did you find out later on that he did? A. No, sir.

Q. Did you inquire of any of the officers who gave Culombe and Taborsky liquor while in the State Police cruiser? A. No, sir.

Q. Did you ascertain that drink was given to both Taborsky and Culombe in the state police cruiser while the investigation was being conducted? A. No, sir. This is the first that I have heard of it.

Q. Are you sure? A. Yes, sir.

Q. Do you know of a couple of bottles being thrown in an ash can at a diner in Rocky Hill, one a liquor bottle and one a soda bottle, by these men, these accused?
A. No, sir, I don't remember anything like that.

Q. Did you know of a bottle of liquor, a fifth of liquor being in a state police cruiser where these men were in custody. A. No, I don't remember anything like that.

Q. Did you ask—question withdrawn. Were you in a diner in Rocky Hill? A. No, sir.

Q. Were you in a diner in the course of your trip to Coventry and Rocky Hill and have something to eat, you and the prisoners? A. Yes, we stopped in Wethersfield.

Q. On the road from Rocky Hill? That's when you stopped at the diner, wasn't it? A. That's right, before going to the barracks.

Q. Now, did you say to both of these accused men, "What officer was in that cruiser and let you guys drink?"

A. This was the day that we went to Rocky Hill?

Q. Yes. I am asking you the question. Don't ask me.

MR. McDONOUGH: May the question be read, Your Honor?

THE COURT: Yes, read the question, Mr. Burke. (Last question read by reporter.)

A. Mr. McDonough, I believe you are right.

Q. All right, tell us about it. A. I remember vaguely when we were at Coventry somebody had a bottle there, one of the prisoners, or I remember saying, something like that, but I don't—

Q. Do you recall, Sergeant, why you asked that question? A. No, I don't remember.

Q. Well, it is because you apparently had reason to believe they had been drinking while in police custody? That is the reason that you asked that, isn't it? A. Well, I must have felt that they had had a drink. I don't remember that, Mr. McDonough.

Q. Was there an investigation of these men being allowed to drink while in police custody and being subjected to an examination or an investigation? Was there an investigation by the department of that incident? A. No, sir.

Q. You are sure that there wasn't? A. Not that I know of.

Q. Don't you as a sergeant, as a police official, think that there should have been? A. No, sir.

MR. BILL: Objection.

THE COURT: I will allow the answer.

Q. Your answer is "No, sir?" You know Culombe's physical condition, don't you? A. I don't quite understand what you mean.

Q. Do you know his physical condition?

MR. BILL: Objection.

A. No, I don't know his physical condition.

Q. Do you know now and did you know at the time that you had him in custody, his mental condition.

A. What is his mental condition?

Q. Do you know? A. No, I don't.

Q. Don't ask me. I am asking you. Did you know?

THE COURT: Wait a minute, Mr. McDonough. I agree that the officer should not have asked you the question and you did use some judgement in not answering it. He can't answer questions and you have no right to ask him Sergeant. Should he do it, Mr. Donough, I would appreciate your not answering them, and the Court will take proper action in that regard. Let's proceed with the examination.

MR. McDONOUGH: May the qusetion be read?

THE COURT: Read the question, Mr. Burke. (Question repeated by reporter: "Do you know now and did you know at the time that you had him in custody, his mental condition? A. What is his mental condtion- Q. Do you know? A. No, I don't."

Q. Well, Sergeant, at that time wasn't his mental condition discussed among you officers over at state police headquarters? A. I know whatever he told me about himself.

Q. And he told you that he had been in a mental institution, didn't he?

A. He told me that he had been—had attended a school for the feeble minded in Massachusetts.

Q. Did he tell you that before that he had been in Bridgewater Mental Hospital in Massachusetts, the big one, for observation for thirty-five days before he went to that mental school for boys? Did he tell you that?

A. I think so, I am not sure.

Q. Don't you know the effect that liquor has on mental—people with mental diseases? A. No, sir.

Q. You don't? Did you think that it was wise during the course of that investigation for a man that was being questioned, who had been a mental patient, to be allowed to drink? A. Mr. McDonough, if I knew that there was liquor in the car it would not have stayed there.

Q. Do you know now that there was? A. You brought it to my mind that I did ask a question like that.

Q. Sergeant, there must have been a reason that you had for asking that question. A. That's right, because I must have thought that they had a drink.

Q. They acted as though they had been drinking, didn't they? A. No.

Q. Well, what made you think that they had a drink?

A. I don't know. I suppose that their breath was strong, or something.

Q. At what time, Sergeant, did they have dinner in

the Wethersfield Diner? A. We were there about seven o'clock, I believe.

Q. And he was taken into custody—that is, Culombe was—at two-thirty? A. That's right.

Q. And it was at the Wethersfield Diner that you wanted to know what officer, quoting you, "What officer was in that cruiser and let you guys drink?" That was at the Wethersfield Diner, wasn't it?

A. I don't know. I know just that I did ask something like that. I don't know just whether it was there or whether it was at Coventry.

Q. Do you think that it is advisable when men are being questioned and while in custody to have them drinking hard liquor? A. No, sir.

Q. Did any officer tell you that the bottles were deposited in an ash can at the Wethersfield Diner?

A. No, I don't remember that.

Q. Do you know where the liquor came from that they drank? A. No, I can't say that I do.

Q. Do you know that liquor entered State Police Headquarters and came out of State Police Headquarters with them and into the cruiser? A. That would have been the only way that they got it.

Q. I am not by any means, Sergeant, insinuating or meaning to insinuate that you had anything to do with it, when I ask these questions, but you don't know how the liquor got into State Police Headquarters, left State Police Headquarters and got into the cruiser, do you? A. No, I don't.

Q. But you knew that there was something wrong as as far as liquor was concerned, or you had reason to believe it—let's put it that way—isn't that so, Sergeant?

A. I knew I asked somebody that question. I don't remember the—

Q. What did they have for dinner at the diner? A. I don't remember. They had whatever they wanted.

Q. They ate pretty well, didn't they? A. Yes, sir.

Q. They ate real dinners, you officers had sandwiches, didn't you? A. I don't remember.

Q. They were wined and dined, both, weren't they? A. They were not wined, sir.

Q. Well, they wined or they whiskied, let's put it that way. A. If they did that it was without my knowledge and we had nothing to do with it.

Q. And they were fed pretty well, weren't they? A. We always feed our prisoners well.

Q. You fed them well anyway? A. We always do.

Q. These men, wanted for a brutal murder, were fed well and were in your custody and treated pretty well up to a certain point, weren't they? A. Yes, sir.

Q. Up to a certain point?

MR. BILL: Objection, Your Honor.

MR. McDONOUGH: That is a fair question.

MR. BILL: That's like "When did you stop beating your wife?"

MR. McDONOUGH: What's the wife got to do with it?

THE COURT: I will sustain the objection, Mr. McDonough, much as I might be interested in the answer.

Q. Well, we will go as far as a standpoint. You brought him back to headquarters and then what happened

—we will start this again. I asked you about a leather jacket or a jacket that Culombe was wearing when he was taken into custody. Did he continue to wear that jacket?

A. No, sir.

Q. He removed that at your request, didn't he?

A. Yes.

Q. You told him he didn't look good in it? A. I told him I wanted him to look the same as we did so I gave him my coat.

Q. Well, you men look like distinguished and are distinguished Officers. You didn't want him to look like a policeman, did you? A. I didn't want him to look any different than anybody else.

Q. You didn't have leather jackets? A. No, sir.

Q. What did you have on? A. I had a coat on.

Q. What kind of a coat? A. A topcoat.

Q. A raincoat or a cloth topcoat? A. A cloth topcoat.

Q. And you wanted him to look like you? A. He is a good looking man.

Q. I am sure he will appreciate that. Is that why you wanted him to look like you? A. I wanted him to look like the rest of us in clothing.

Q. Is that what you mean when you told him to take off his jacket and put on a coat? A. Yes.

Q. Didn't you tell him he didn't look good in the jacket and he looked better in a topcoat? A. I don't know exactly the words, but that is what I told him.

Q. You said he didn't look good in a jacket and to take it off and put on a topcoat. You don't seriously disagree with that? A. No.

Q. Did he look better in a topcoat? A. He looked dressed the way the rest of us were.

Q. Was it a fashion show you were going to?
A. No, it wasn't, sir.

Q. But he had to be dressed according to the way you gentlemen wanted him to? A. I was trying to give him a break.

Q. You were trying to give him a break? A. That's right.

Q. You mean you wanted him to look like someone he wasn't? A. I wanted him to look dressed like the rest of us.

Q. Why were you so fussy about Culombe's appearance who was being picked up in a murder investigation in the middle of preparation—why were you?

MR. BILL: Objection.

Q. Why were you so worried about him being dressed up? That wasn't the reason you wanted him dressed. You wanted him to be dressed up to be identified as a man wearing a topcoat, didn't you? A. No.

Q. What did you bring him to Coventry for?
For identification purposes.

Q. And to wear a topcoat to go to Coventry? A. No, sir.

Q. But he wore a topcoat to Coventry? A. Yes.

Q. And he wore it to Rocky Hill? A. Yes.

Q. Just to have him dressed up and seen with officers?
A. I wanted him dressed the same way the rest of us were so that they would have a proper identification.

Q. And if you were wearing red jackets you want him to wear one as you fellows, is that right? A. If we had one

Q. Has Culombe still got that topcoat? A. Yes, sir.

Q. Is that the topcoat he was wearing when he was presented in this courtroom when arraigned on the indictment? A. Yes.

Q. And that is the topcoat you said he was dressed up in — it was a dirty, greasy, filthy old thing, wasn't it?

A. Mr. McDonuogh, I have worn it myself.

Q. You might have worn it, Sergeant, but I am asking you about the time Culombe got it — it was a dirty topcoat, wasn't it? A. It wasn't a new coat.

Q. It wasn't a new coat, no. Where is that topcoat now? A. As far as I knew he still has it.

Q. In the cell at the County Jail? A. I presume so.

Q. Are you going to make a present of it to him?

A. Yes, sir.

Q. Where is his jacket? A. I believe it was held at State Police Headquarters.

Q. That is why you gave him the topcoat and took the jacket? A. That is a question?

Q. I will withdraw it and agree to have it stricken.

THE COURT: It is withdrawn and it may be stricken.

Q. Now it is gone. Who was the Officer handling the cruiser these men were in when they went on that trip?

A. I think it was Officer Griffin.

Q. Did either one of those two men have anything in their hands when they left State Police Headquarters and entered the cruiser? A. Not that I know of.

Q. Well, you mean you didn't see? A. I didn't see.

Q. They might have had and they might not have had — you did not notice it? A. Well, I was trying to watch them.

Q. Well, were you looking at them? A. I was watching them as closely as I could.

Q. Would you say that neither one of them had a paper bag in their hands and had bottles in their hands when they entered that cruiser? A. Not that I know of.

Q. Well, you mean you don't know? A. I don't know.

Q. What time did you leave the barracks or State Police Headquarters Saturday night, the night Culombe was taken into custody? A. Somewhere around midnight.

Q. When you left the barracks at midnight, where was Culombe? A. I believe he had been locked up.

Q. Downstairs? A. Downstairs.

Q. In a cell block? A. That is right.

Q. Where is the boiler room in the State Police Headquarters at the barracks? A. I presume it is in the cellar.

Q. In what building? A. Of the barracks itself.

Q. In the barracks down in the basement of the barracks. Have you been in the boiler room? A. I am trying to fix exactly where the boiler room is. I don't know exactly where it is — there is pipes leading down through a sub-cellar we have — I don't know where it does go to.

Q. You have never been in the boiler room? A. I don't think so.

Q. Did you ever hear of the "Captain's Chair"? A. No, sir.

Q. Never heard of one located over at State Police Headquarters—and not in the Captain's office? A. No, sir, I don't know what you mean.

Q. Have you ever heard of a Captain's chair in the boiler room at State Police Headquarters? A. No, sir.

Q. You never heard of it? A. No, sir.

Q. Much less having seen it. You wouldn't say there is no such chair in the boiler room? A. I don't know what you mean.

Q. Never heard that expression over there?
A. No, sir.

Q. Do you have an interrogation room or rooms in the State Police Headquarters? A. We have one room we more or less could use for that.

Q. Is it known as the interrogation room? A. I suppose so.

Q. What is an interrogation room? A. It is a room where you sit down and there is a table and a chair.

Q. And anything else unusual about a room of that type? A. No, sir.

Q. How about mirrors? A. No, sir.

Q. How about the upper part of the doorway—nothing on the transom? A. No, sir.

Q. Do you know what a bug is? A. Yes, sir.

Q. What is a bug, used in police language? A. It is used to listen in on in a room.

Q. Is there a bug in that interrogation room? A. I believe so.

Q. Is the boiler room used for interrogating purposes?
A. I don't know where the boiler room is.

Q. So that whether it is used for interrogating purposes, you don't know? A. I have never heard of it.

Q. Well, interrogating at the State Police Headquarters is not confined to that one room, is it? A. You can sit most anywhere and talk to a person.

Q. Was Culombe interrogated? A. Yes, he was talked to.

Q. By whom? A. I spoke to him.

Q. Well, you say he was talked to. Is interrogating as it is used in Police Headquarters merely conversation?
A. That is right, sir.

Q. That is all? A. That is right, sir.

Q. Suggestive conversation? A. Sometimes.

Q. How forceable do the suggestions get?

MR. BILL: Objection, Your Honor.

THE COURT: Sustained.

Q. How far do the suggestions go?

MR. BILL: Objection, Your Honor.

MR. BURKE: Claim it.

THE COURT: I will sustain the objection.

MR. McDONOUGH: Exception, please.

THE COURT: Surely.

Q. How long was Culombe interrogated by you?
A. On what day?

Q. Well, we will start off with Saturday?

A. Saturday I spoke to him for just a short while after we came back from dinner.

Q. That don't mean a thing. A. We came back at seven and we drove to his home at a quarter past eight.

Q. Say half an hour and then you came back from dinner and you talked with him? A. That is right.

Q. How long? A. I talked to him after we came back for about an hour asking him about the guns.

Q. By the way, after a nice dinner down at the diner and a ride and the whiskey, what was his attitude as you talked to him after that dinner,—was his attitude friendly? A. No different than before.

Q. It was friendly? A. He always was that way.

Q. Cooperative, wasn't he? A. He was doing a lot of lying.

Q. Do you think the liquor had anything to do with it? A. I don't know.

Q. It might have influenced the statements, that is true isn't it? A. He gave us no statements at that time.

Q. Well, he talked to you? A. Yes, sir.

Q. Well, what he said,—let us put it that way. Don't you think that liquor influenced him a bit? A. I don't know. I don't know if he had anything to drink.

Q. You knew at the time, didn't you, that he had something to drink, or you suspected it because you questioned these men about it — there was a fifth of liquor involved? A. I don't know.

Q. Did he show the signs of drinking when he answered questions A. No sir.

Q. Now, you said except when he lied or when he was lying to you,—sometimes he told you what you called the truth, isn't that right — or did he lie all of the time?

A. No, he told the truth, and he lied too.

Q. He did both? A. He did both.

Q. He told you various stories? A. That is right.

Q. Do you think a man with a clear head and a sound brain would tell a different type of story than he did?

MR. BILL: Objection.

THE COURT: Sustained.

Q. Did he have a clear head — I mean as far as alcohol was concerned — when you were talking to him?

MR. BILL: I object to it — the clear head part.

MR. McDONOUGH: I said as far as alcohol was concerned.

THE COURT: I will sustain the objection in that form. You are entitled to pursue that line, however.

Q. Do you believe the alcohol he drank affected him in his answers to you? A. On Saturday, no, sir.

Q. You didn't. Did he carry his liquor pretty well?

A. I don't know that he had any liquor.

Q. Well, I suppose up to the time on Wednesday or Tuesday or Monday or Sunday — did he get along well with you men in answering the questions, or did he always get along well with you? A. You mean did he always tell us the truth?

Q. Yes. A. No, sir.

Q. When did he lie to you? A. I would ask him various questions and he wouldn't tell us the truth about it.

Q. There was one time he wanted a lawyer, wasn't there — he asked for a lawyer? A. He never asked me for a lawyer.

Q. I didn't ask you whether he asked you. I asked you whether he asked for a lawyer? A. I don't know.

Q. Do you know that he asked Lieutenant Rome for a lawyer? A. I don't know.

Q. Don't you know he was threatened? A. No, sir.

Q. Do you know or did you see anyone else taken to the State Policee Headquarters in connection with Culombe —did you examine any members of his family or did you bring anyone else in? A. No, sir.

Q. Did you make any more trips to Culombe's house? A. Yes, sir.

Q. Who did you see there? A. Mrs. Culombe.

Q. Did you talk to her? A. No.

Q. Did you bring her to State Police Headquarters? A. No, sir.

Q. Did you see her in State Police quarters at any time? A. Yes, I did.

Q. Did you see the child at State Police Headquarters —the little girl? A. Yes, I did.

Q. His wife and little girl were both at State Police Headquarters, weren't they? A. That's right.

Q. They were taken into custody, weren't they? A. I don't know—they were there.

Q. Well, where were they in headquarters? A. At the Special Services office.

Q. And they were questioned, weren't they? A. I don't know. I had nothing to do with talking to them.

Q. Did you make sure that Culombe knew his wife and little girl were at headquarters? A. I believe she talked to him that night.

Q. And you men talked to Mrs. Culombe and the child alone, didn't you? A. I did not.

Q. Who did? A. I don't know—I wasn't running the investigation.

Q. I beg your pardon? A. I say I wasn't running the investigation.

Q. Who was running the investigation? A. Lieutenant Rome was in charge.

THE COURT: I think we will stop here, Mr. Mconough.

MR. McDONOUGH: Yes, Your Honor.

THE COURT: Will you escort the accused from the courtroom?

You may step down.

The alternates may retire to their room, if you will and the jury may retire to their room.

Take a short recess, Sheriff.

(Recess at 11:29 A.M.)

JUNE 6th, 1957. 11:50 A. M.

(Accused present)

THE COURT: May I have the alternates, Sheriff, and the jury?

(Jury and atlernates present)

THE COURT: You may proceed, Mr. Donough.

DONALD PAIGE, resumed the stand and testified further as follows:

MR. McDONOUGH: May I have the last question and answer?

THE COURT: Surely. Read it, Mr. Burke.

(Last three questions and answers read by reporter).

CROSS EXAMINATION BY MR. McDONOUGH (RESUMED).

Q. Well, now, Sergeant, you know that Lieutenant Rome was questioning Mrs. Culombe, don't you? You heard him questioning her Sunday night, didn't you, when you were questioning Culombe? A. No, sir.

Q. Well, you were questioning Culombe Sunday night, weren't you? A. I remember talking to him on Sunday afternoon.

Q. Well, think and see if you didn't talk to him Sunday night. Did you talk about Danny Lisco? A. Beg pardon?

Q. Did you talk about Danny Lisco Sunday or Sunday night?

MR. BILL: I didn't get the question.

THE COURT: Read it Mr. Burke.

(Last question read by reporter.)

THE COURT: Will you answer?

A. I don't know who Danny Lisco is.

Q. Do you know where the Dug Out is? A. Oh, yes.

Q. Who owns the Dug Out? A. His name is Danny. I don't remember his last name.

Q. It is a gambling joint, isn't it? A. I don't know.

Q. You heard about it? A. I heard of it.

Q. You have heard about it as a gambling joint, haven't you? A. That's right.

Q And there was a Hartford detective questioning Culombe in your presence on that Sunday night that you speak of, about Danny Lisco, wasn't there, in State Police Headquarters? A. That's right.

Q. Now, you do remember questioning him Sunday night? A. It was Sunday afternoon.

Q. You questioned him Sunday afternoon, there is no question about that. You didn't question him Sunday night again? A. No. This Sergeant, the Sergeant from the Hartford Police was with me in the afternoon, as I remember, and we talked to Culombe about this Dug Out, about an incident that occurred there.

Q. Well, you brought Culombe upstairs in State Police Headquarters from the cell block on Sunday afternoon, didn't you? A. I don't remember.

Q. Have you got a good memory or a poor memory? A. It's fair.

Q. Is it a convenient memory? Do you remember what you want to remember and forget what you want to forget? A. No, Mr. McDonough.

Q. Now, Sergeant Paige, this man Culombe here was questioned Sunday afternoon and Sunday night and his wife was questioned Sunday night, wasn't she?

A. I don't remember her being there Sunday night.

Q. Well, now, for a long time, touching upon your memory, you failed to remember about a bottle of liquor in a police cruiser, and then you remembered it. Now will you devote the same amount of time to refreshing your memory as to whether or not this conversation didn't run

into Sunday night? A. It may have. I don't remember when we—

Q. Let's leave it "It may have". A. All right.

Q. As a matter of fact, isn't it so that you questioned him, as you said, Sunday afternoon and later Sunday evening you brought him a sandwich and a glass of milk—or that is, you brought it for Culombe?. A. That may have been so.

Q. And then a Hartford detective—I think it is Sergeant Daly, was it—was in the room questioning Culombe about Danny Lisco, the man who is supposed to operate the Dug Out, and you were there, isn't that so?

A. I spoke to him about it myself.

Q. Both of you gentlemen? A. Yes, I did.

Q. You and Sergeant Daly? And was it Sergeant Daly? A. No, I don't think that is the name.

Q. Was it some Hartford detective? A. That's right.

Q. Didn't you ask Culombe if he tried to get into Danny Lisco's place, the Dug Out? A. That's right.

Q. Now—and he denied it? A. He admitted it.

Q. Well, he said that he tried to kick a window in, isn't that what he said? A. That's right.

Q. And he said he was alone, that's right, isn't it?

A. He said that he was alone and then there was two other men in a yard there.

Q. Didn't the Hartford sergeant say to him "Don't you know that that place is a bee's nest", meaning it was loaded with gamblers? A. I don't remember that.

Q. Now, while you were questioning Culombe with the Hartford officer, that took place in a little room up-

stairs in police headquarters, didn't it?

A. We were upstairs for a while, then we went down to the barrack's lounge room.

Q. The barracks lounge? When you were questioning Culombe in the room upstairs was there someone being questioned in the room across the hall? Was there a lady being questioned there? A. I don't remember. There was a lot of activity.

Q. Didn't you hear a lady crying across the hall while she was being interrogated by Lieutenant Rome? A. No, sir.

Q. Well, did you hear a lady talking? A. I don't remember.

Q. Well, now, we will go to work on that memory A. Okay, sir.

Q. You always remember after a while. Didn't you hear a lady say to Lieutenant Rome "I don't know why I should tell you about my personal life. I haven't committed a crime." A. I didn't hear that.

Q. Is there a transom in the room, or in the door of the room that Culombe was being questioned in on Sunday night or Sunday afternoon? A. I don't think so.

Q. Wasn't Culombe deliberately placed in that room and questioned about a gambling situation that had nothing to do with your murder investigation, for the purpose of allowing him to hear his wife sobbing while she was undergoing a police examination? A. No, sir.

Q. Wasn't that your purpose? A. No, sir.

Q. His wife was in headquarters at that time, wasn't she? A. I don't know.

Q. Well, refresh that memory again. Did you see her in headquarters Sunday night? A. She may have been

there, I don't remember her. I had nothing to do with her

Q. Well, we will determine whether or not this did happen. A. Okay.

Q. She may have been there, this might have been, Sergeant, what it had to do with. She was being questioned, she was crying, within earshot of this man here, and he was obviously disturbed by it, wasn't he?

MR. BILL: I move that that be stricken.

MR. McDONOUGH: I claim it.

THE COURT: I will sustain the objection.

MR. McDONOUGH: May I have an exception?

THE COURT: Certainly.

Q. Wasn't it apparent to you that Culombe was very much disturbed that evening during the questioning by yourself and the Hartford detective? A. No more than he had been right along.

Q. He had been disturbed right along? Well, we have gone this far now, that she may have been in headquarters at the time that this questioning was going on. Now, will you go this far? Do you know whether or not she was in a room across the hall from where you were questioning Culombe, or in a room next to the room where you were questioning Culombe?

A. I said I did not know if she was in the building on Sunday.

Q. Do you know whether or not his young child, a little girl, was being held at police headquarters with her mother while he was being questioned? A. On Sunday?

Q. Any day. Well, Sunday, that is what I am talking about. A. I don't remember her being there Sunday.

Q. The little girl was in headquarters, wasn't she?
A. I remember seeing her there Tuesday night.

Q. Was the mother of that little girl, the wife of Culombe, under arrest? A. She was never under arrest as far as I know.

Q. She never has been under arrest? She didn't come to police haedquarters of her own free will, did she, Sergeant? A. I would say she did. If she came to headquarters she came because we asked her to come.

Q. Let's go back to what you say, voluntary trip, and then you later said he would have gone anyway. Supposing she refused to come, would she have been brought?

MR. BILL: Objection.

MR. McDONOUGH: Claim it.

THE COURT: I will sustain it.

MR. McDONOUGH: Exception, please.

THE COURT: Surely.

Q. Was she brought to State Police Headquarters by state police?
A. I don't know Mr. McDonough. I wasn't running this investigation.

Q. But you say that she was not under arrest. Was she?
A. As far as I know, during no time at all was Mrs. Culombe under arrest by the State Police Department.

Q. We will come back to your statement a minute ago, you were not running this investigation. You said that Lieutenant Rome was. A. That's right, sir.

Q. He is a lieutenant and you are a sergeant?
A. That's right.

Q. You were second in command to him, weren't you, in this investigation?

A. I was working for and with him.

Q. You were the next man under him, weren't you?

A. There's a lot of other sergeants working throughout the State.

Q. Sergeant Paige, I admire your modesty, but you were the second in command, weren't you, in this investigation, to Lieutenant Rome? A. I suppose you could say that.

Q. So you should know whether or not either Mrs. Culombe or the little girl were under arrest? They were not? A. To the best of my knowledge at no time were they under arrest, or—

Q. Or what? A. Or brought there by any—

Q. Now, we will come to that.

MR. BILL: Let him finish.

MR. McDONOUGH: I am sorry.

THE COURT: Do you want to complete your answer?

A. By anything out of the way, as far as I know, if they came there. I know once I saw them there.

Q. By "any way out of the way", what would you consider out of the way? A. If they were forced to come.

Q. They were, weren't they? A. Not that I know of.

Q. Doesn't an invitation from the Connecticut State Police mean more than a simple invitation? A. No, sir.

Q. Supposing Taborsky and Culombe were there, invited downtown to meet the Lieutenant Rome, that you

claim that you heard testified to, had declined the invitation, they would have come, wouldn't they?

MR. BILL: Objection.

MR. McDONOUGH: Claim it.

THE COURT: I am going to sustain it for several reasons, but the main one is he already answered that and said they would have been forced to come.

Q. They would have been forced to come and that is the truth, so Mrs. Culombe and the little girl, if they didn't accept the invitation to come down to State Police Headquarters, they would have been forced to come down, wouldn't they?

MR. BILL: Objection. We haven't any evidence that he had anything to do with it.

THE COURT: I will sustain the objection.

MR. McDONOUGH: Your Honor please, he was second in command.

THE COURT: I will sustain the objection.

MR. McDONOUGH: Exception, Your Honor please.

THE COURT: Certainly.

Q. Do you know who invited Mrs. Culombe and the little girl down to headquarters? A. On Tuesday night?

Q. Any night. A. As far as I know, it must have been Lieutenant Rome.

Q. Your hearing is good, I assume, Sergeant? A. I assume so, sir.

Q. And you are sure, now that your hearing is good, are you sure, refreshing your memory, that you didn't hear the lady crying and crying violently Sunday night?

A. I don't remember that, Mr. McDonough.

Q. You don't remember? That's the way that you will leave it? A. No, sir.

Q. Did you hear the little girl crying in police headquarters? A. No, sir.

Q. How long was the little girl kept in police headquarters? A. I remember seeing her there Tuesday night. I think I saw her there for about an hour.

Q. About an hour Tuesday night, Sergeant?
A. That's right.

Q. Now, do you know that Culombe knew that his wife and little girl were in Police Headquarters — that he knew that? A. Tuesday night he was talking to her.

Q. He knew they were there Sunday night, didn't he?

MR. BILL: Objection. He stated he didn't know himself.

MR. McDONOUGH: I am asking if Culombe knew they were there.

THE COURT: Of course, there is an intermediate question that could be asked, but I will allow it. You can answer.

THE WITNESS: I don't know if Culombe knew that.

Q. You don't know? A. No, sir.

Q. Did he see his wife before Tuesday night?
A. Not that I know of.

Q. In other words, he was taken into custody, held in custody, questioned for hours, locked up from Saturday afternoon at two-thirty and he was not allowed to see his wife until Tuesday night; that is correct, isnt it?
A. No, sir.

Q. When did he first see his wife? A. He was invited into the State Police Headquarters.

Q. We are forgetting the invitations for awhile. Answer the question.

THE COURT: Read it, Mr. MacClashan.

(The reporter read the question.)

THE WITNESS: To the best of my knowledge he saw her Tuesday night.

Q. Well, between the time he was taken into custody and locked up and held in custody from Saturday afternoon at two-thirty, until Tuesday night, he was not allowed to see his wife, was he? A. I don't know that.

Q. Well, the first you knew he saw his wife was on Tuesday night? A. That's right.

Q. Did he see anyone between Saturday afternoon at two-thirty and Tuesday night other than his wife? A. I think he saw a lot of people.

Q. Who? A. Well, I think he went to New Britain Police Headquarters on Monday and Tuesday.

Q. Oh, yes. They have a cage down in the courtroom there. A. I don't know.

Q. Weren't you ever in there? A. No, sir.

Q. You weren't there that night? A. No.

Q. I'm not talking about New Britain Police Headquarters or any people who were brought in to look him over. I am asking you whether or not he saw anyone as a visitor friendly to him with the exception of his wife between Saturday afternoon and Tuesday night? A. I don't know.

Q. You don't know. Weren't you in a position to know?

A. No, Lieutenant Rome would be the only one who knew that.

Q. You were constantly on this investigation, weren't you? A. That's right.

Q. You were assigned to it, weren't you? A. That's right.

Q. And you were in and out of Police Headquarters and in contact with Lieutenant Rome and other Sergeants and Officers on this case concerning Taborsky and Culombe all the way through, weren't you, up until the time they were presented in this courtroom? A. That's right.

Q. And you were not allowing anyone to see Culombe until it was okayed by yourself, Rome or the group?

A. Lieutenant Rome was running this thing; I had nothing to do with it.

Q. Wouldn't you stop someone from seeing him unless it had the approval of Lieutenant Rome? A. If I was in charge of the man, yes.

Q. You would even stop a lawyer from seeing him?

MR. BILL: Object to that.

THE COURT: Sustained.

MR. DcDONOUGH: Claimed. I intend to follow it up with the defense that he was prevented from seeing a lawyer.

THE COURT: I can't pass on what you intend to do. I sustain the objection at this time.

Q. Did he see a lawyer before Tuesday night? A. I don't know.

Q. Did you or Lieutenant Rome allow him to see a lawyer?

MR. BILL: Objection, Your Honor.

THE WITNESS: I had nothing to do with him.

Q. I asked if you did. The question is not whether he had anything to do with it.

THE COURT: The question wasn't did he allow him. The question was, did Lieutenant Rome.

MR. McDONOUGH: I will strike out Lieutenant Rome.

Q. Did you, Sergeant, allow him to see a lawyer between Saturday and Tuesday night?

MR. BILL: I object until there is production of authority for that.

THE COURT: I understand. It is cross examination and I will overrule the objection. Will you answer the question?

THE WITNESS: I don't know how it was worded.

THE COURT: Read it, Mr. MacGlashan.

(The reporter read the question.)

THE WITNESS: I had nothing to do with allowing him or not allowing. Whether he saw a lawyer I don't know.

Q. You met his lawyer the first time his lawyer walked into State Police Headquarters? A. His present lawyer?

Q. Yes. How many lawyers did he have? A. I don't know.

Q. I said his lawyer. What do you mean by his present lawyer? That is the first time you ever met me, isn't it?
A. That is right, sir.

Q. And until I informed you I was appointed by the Court to see Culombe as his attorney, you were hesitant about allowing me in to see him, weren't you? A. Mr. McDonough, I had nothing to do with stopping you or anybody seeing him.

Q. That isn't the question. May it be read?

THE COURT: Read the question, Mr. MacGlashan.

(The question was read.)

A. I can't answer that, Your Honor.

THE COURT: All right.

A. It doesn't make any sense to me.

Q. It doesn't make sense to you? A. No, I don't quite understand what you mean.

Q. You do recall his lawyer, who happens to be the one asking you questions now? A. Yes, I remember meeting you over at headquarters.

Q. Walking into headquarters? A. Yes.

Q. And you were informed I was his Court appointed attorney? A. Yes.

Q. And weren't you a bit doubtful—didn't you hesitate before you allowed me to see Culombe? A. I don't remember hesitating. I brought you upstairs, if I remember right.

Q. After a little while? A. Yes, sir.

Q. Culombe hasn't seen any other lawyer in the meantime, has he? A. I don't know.

Q. He hadn't seen anyone up to the time, had he? A. I don't know.

Q. He had been presented in court before that day

even, hadn't he? A. He was presented in court on Tuesday, if I remember.

Q. What day was it I came to State Police Headquarters? A. That is what I am trying to think.

Q. It was on the following Friday, wasn't it—after I had referred to you as the Cook's Tour taking place—that is when I came in, wasn't it? A. I guess it was on Friday I saw you, Mr. McDonough.

Q. That was after Culombe had been presented in court? A. Yes, that is right.

Q. And Taborsky had been presented in court?
A. That is right.

Q. After they had gone on more trips with the State Police? A. That is right.

Q. You had been with him quite frequently up to that time, hadn't you? A. Up to Friday?

Q. Yes? A. Yes, sir.

Q. You were one of the men closely attached to him, weren't you? A. That's right.

Q. And you remember the appearance of Culombe as he sits there in your coat before the Court, don't you?
A. Yes, sir.

Q. How is it you didn't go to New Britain with him?
A. I had another assignment, if I remember.

Q. Don't you know that Culombe had asked for an attorney? A. No, I don't.

Q. Over at State Police Headquarters? A. No.

Q. A lawyer? A. No, sir, I don't.

Q. Don't you know the only way he got an attorney was by a Judge in the court sitting on this bench where

His Honor sits — don't you know that an attorney was appointed and was allowed to confer with him — don't you know that was the first time he was allowed to see a lawyer? A. No, I don't. I know there was an attorney appointed by the Court.

Q. Did any more question arise during the rest of the week about any more liquor being consumed by this individual Culombe? A. No, sir.

Q. You were safeguarding against it, weren't you? A. Mr. McDonough, that time you are referring to about the first day that we picked him up, I remember that Taborsky had some packages with him, and in it I believe there was a bottle of liquor. They were not under arrest and we didn't take anything away from them, and that is where this liquor came from you are referring to. When they were placed under arrest they were searched, of course, at that time, and there was no liquor on them. I never saw them drink liquor at anytime they were with me.

Q. You have refreshed your recollection during the recess period, haven't you? A. Yes, I have.

Q. How have you refreshed it? A. I asked one of the men that was with me.

Q. And he told you what you are testifying to now? A. That is right.

Q. You didn't know that of your own knowledge? A. I didn't remember it, no.

Q. He told you that Taborsky had a fifth of whiskey and a bottle of soda when you picked him up? A. He said he had part of a bottle of liquor.

Q. Taborsky was allowed to carry a bag into the State Police Headquarters in the conduct of a murder investigation without the bag being searched? A. I don't

know whether it was searched or not. I know he had something with him when he came with us.

Q. You don't think it was, and when he was taken on that trip and was in custody that you allowed him to carry a bag around without being searched—he might have had a gun in it? A. He wasn't in custody at that time.

Q. He was in custody when he was taken on the trip to Coventry and Rocky Hill? A. No, he wasn't.

Q. Well, if he didn't go he would have had to go?

A. That's a different story. It didn't come up.

Q. Well, if it did come up, that would have been the situation? A. Yes.

Q. He just didn't know he was in custody — as far as you people were concerned, you had him and have had him ever since? A. He wasn't in custody at that time. They went along with us voluntarily.

Q. How much liquor was in the bottle? A. I don't know — I don't remember seeing it.

Q. You talked over your testimony with your brother State Policeman when you left the stand? A. I asked this question about the liquor because it was bothering me.

Q. And you talked it over with them? A. That part of it, yes.

Q. And you talked over what you were going to say when you resumed the stand? A. No, sir.

Q. Did you ask about the Captain's Chair? A. No, sir.

Q. Did you ask Lieutenant Rome about it? A. Yes, sir.

Q. Did you find out what it was? A. No, sir.

Q. What else did you ask him? A. That is all.

Q. You have never been in the boiler room and you don't know what the Captain's Chair is. There are things going on over there you don't know anything about, is that right? A. I guess you are right, Mr. McDonough.

Q. You didn't ask me during recess, did you? A. I should have. That would have been one way of finding out.

Q. Oh, that would have had an answer, but I don't think the Court wants you to ask me questions.

THE COURT: No, I think I made it rather clear I didn't want him to.

Q. I want it understood that it is not a nice plush cushioned chair in the Captain's office. I don't mean any such chair as that.

Now, did you make any suggestions to Culombe when he was being questioned as to what he might do to ease his problems?

A. I don't quite understand your question.

Q. You know what a suggestion is? A. I don't quite understand what you mean by it.

Q. You know what a problem is? A. Yes, I have had a lot of them.

Q. We all have and we have them right now, haven't we? A. Yes, you and I.

Q. Now, Culombe had problems on Sunday, the day he was questioned, the day after being taken into custody —he had problems, didn't he? A. Well, he was under arrest at that time.

Q. Well, he had problems? A. Yes.

Q. What was he under arrest for — what was he charged with? A. The felony law at that time.

Q. What felony law? A. I don't remember exactly how it goes.

Q. He was charged with murder, wasn't he? A. No.

Q. What were you enforcing—what were you investigating—a murder? A. We were investigating a lot of incidents, Mr. McDonough.

Q. Well, what felony law was he charged with, Sergeant,—you are a Police Officer, you have this man in your custody—he was booked, what was he booked with?
A. He wasn't booked until Monday, as I recall.

Q. Where was he booked? A. In New Britain.

Q. Did you have the intention Sunday night of booking him, charging him with a crime? A. I had no intention of anything; I was merely assisting in investigating —I wasn't in charge.

Q. You went along with the train? A. I was assigned as a worker.

Q. You went along for the ride again with Lieutenant Rome? A. I don't understand.

Q. You went along on the investigation train? A. I assisted in the investigation and did what I was assigned to.

Q. Let us get down to facts. Didn't you say to Culombe, "Wouldn't you like to take a smaller rap instead of a big rap?" Didn't you? A. I don't remember using words like that.

Q. Now, we have your memory problem. You don't re-

member. Right now you don't remember telling him, "Wouldn't you like to take a smaller rap instead of a big rap?" You know what a rap is in Police language—what is a rap? A. A rap would be an arrest.

Q. And in going a little further in the disposition of criminal cases, it is a sentence? A. Yes, that is right.

Q. And it could mean a death sentence. A. It could be most any kind of sentence.

Q. That would be a rap? A. Yes.

Q. The death sentence? A. Yes.

Q. And a man charged or held in custody for a crime where the death sentence might be imposed, if he took that sentence he would be taking what you would call quite a a rap, wouldn't he? A. Yes, sir.

Q. Death. And it might be a good idea, wouldn't it, if he could take a smaller one in order—instead of the big one—death? A. Yes.

Q. And it might appeal to a man if that suggestion was made to him that if he were smart, he would take a smaller rap? A. Yes, sir, it would.

Q. And you know that as a Police Officer in the conduct of your investigation that that appeals to people? A. That is right.

Q. But you know it didn't appeal to Culombe, don't you? A. I don't know.

Q. Didn't you ask him? A. I don't remember asking him a question like that.

Q. Is that your best answer? A. That's right.

Q. You won't say you didn't? A. I won't say I did and I don't remember asking him any such thing.

Q. You won't say you didn't and you won't say you did, that is what it amounts to, asking any such thing?

A. I don't remember asking him anything like that.

MR. McDONOUGH: That's all, Sergeant.

THE COURT: Mr. Burke?

CROSS EXAMINATION BY MR. BURKE:

Q. Now, Sergeant, when you brought the two men to the police barracks did you keep them together or did you separate them? A. You mean that first day?

Q. You brought them to the police barracks the first day, didn't you, Sergeant? A. I brought Culombe in. Somebody else brought in Taborsky.

Q. Were you present when they both came in?
A. No.

Q. You were not? A. No.

MR. BILL: There is no evidence that they both came in, Your Honor.

THE COURT: I understand that. There has been no objection.

MR. BILL: I object.

THE COURT: The evidence stands now. I think it is fair. There is nothing pending. Go ahead, Mr. Burke.

Q. Sergeant, did you - strike that - were Taborsky and Culombe permitted to be together at any time alone, I mean from Saturday on? A. Yes, they were with me together on the ride to Rocky Hill and Coventry.

Q. They weren't alone together, were they?
A. Oh, no. They were with us.

Q. They weren't kept in the same cell, were they?
A. After they were locked up, no, they were not kept in the same cell.

Q. They were locked up in different cells, weren't they? A. That's right.

Q. And when were they first locked up, Sergeant?
A. Saturday night.

Q. Saturday night? Now, prior to their being locked up they were kept in separate places, weren't they?
A. Well, they were being talked to by different people.

Q. I am not asking you that. Please answer my question.

THE COURT: Please, Mr. Burke. I don't like to have the witness directed what to say by anybody but me. If you want to rephrase that question you can start from there.

MR. BURKE: May I have the question read, Your Honor?

THE COURT: Will you read it, Mr. Burke, please?

Q. (repeated by reporter) Now, prior to their being locked up they were kept in separate places, weren't they?
A. When they were being talked to they were in different rooms.

Q. When they weren't being talked to where were they kept, separately or together? A. As far as I know they were separated.

Q. You know, sergeant, that at all times they were kept separate, don't you? A. That's right.

Q. Now, where was the cell that Taborsky was kept, in relation to the cell that Culombe was kept? A. There was a cell in between them.

Q. There was a cell in between them? And the reason for that was so that they would have no access to each other? A. I presume so. I wasn't running this investigation, Mr. Burke.

Q. I only want to know, Sergeant, what you saw and what you heard. A. Yes, sir, I will be glad to tell you that.

Q. If you would, please. A. Yes, sir.

Q. There was a cell in between the two cells that they were in? A. That's right.

Q. And they were constantly separated? A. To the best of my knowledge.

Q. Now, at the time that you locked Taborsky up on Saturday night, what time was he locked up, would you say? A. I don't know, I think it was somewhere around, oh, ten or eleven o'clock.

Q. Ten or eleven o'clock? At that time before you locked him up did you place him under arrest? A. I did not.

Q. Do you - did anyone place him under arrest to your knowledge? A. I believe that Lieutenant Rome did.

Q. Placed him under arrest before he locked him up? A. I believe so. I am not sure.

Q. Prior to that he was there simply on invitation of Lieutenant Rome? A. That's right.

Q. And he could have walked out at any time that he wanted to? A. I don't know. He didn't try it.

Q. You know that he couldn't, don't you, Sergeant? A. I know that we would not have let him, but he didn't try it.

Q. When you took him out for this ride, you took him to Coventry, didn't you, both of them? A. That's right.

Q. You took them in a police cruiser? A. That's right.

Q. And they were told that they were going on this tour? A. They were invited to go on it.

Q. They were told, weren't they, that you were taking them out to have somebody look at them? That's right.

Q. And if they didn't want to go you would have taken them, wouldn't you? A. I presume so.

Q. Well, you know so? A. That is a very hard question to answer. We may have brought the witnesses there.

Q. All right. Now, when Taborsky left the headquarters he had with him a bag, didn't he? A. Yes.

Q. And you saw the bag? A. I remember —

Q. Fairly large bag? A. That's right. He had some private stuff in there.

Q. It contained two bottles, a bottle of gingerale and a bottle of liquor? A. That's right, Mr. Burke.

Q. Now, prior to his leaving did you talk to Taborsky? A. No.

Q. Were you close to him? A. What do you mean, was I standing alongside of him?

Q. Or near him? A. I guess so, at different times.

Q. And you knew that he had been drinking, didn't you? A. No, sir.

Q. You didn't smell his breath, or couldn't? A. I don't remember noticing anything like that.

Q. How many people got into that cruiser that went for the tour? A. There must have been five.

Q. Who drove? A. Officer Griffin, if I remember right.

Q. Who sat in the back seat? A. Culombe and Taborsky, and there was another officer there.

Q. Moran, wasn't it? A. I don't think so. I don't remember exactly who was in the back seat.

Q. Wasn't Griffin driving, you were next to Griffin? A. That's right.

Q. In the back seat was Taborsky, Culombe and Moran? You know Moran, don't you? A. Yes, sir. I don't remember. I thought it was Shea, but I am not quite sure myself.

Q. Now, at the time that you took them on the tour were they in custody? A. No, sir.

Q. Of the police? A. They were with us, but they went on the trip voluntarily.

Q. And they could have, if they pleased, stopped the tour at any time that they wanted to? A. Well, they didn't try to.

Q. Well, could they have? You were in charge of that detail.

MR. BILL: Objection, Your Honor.

THE COURT: I will sustain the objection.

Q. Who was in charge of the detail of police that took these men on a tour? A. I was.

Q. Now, as the man in charge, could they have left the tour at any point on it?

MR. BILL: Objection.

MR. BURKE: I claim it, Your Honor.

THE COURT: On what basis?

MR. BURKE: On the basis that he was in charge of the tour and he certainly could tell us whether or not he would let them walk away or hold them.

THE COURT: I will sustain the objection.

MR. BURKE: May I have an exception?

THE COURT: Certainly.

Q. Did they ask you to leave at any time? A. No, sir.

Q. Did you tell them that they could not leave? A. No, sir.

Q. Did you tell them that they could leave? A. No, sir.

MR. BILL: Objection.

THE COURT: I will sustain it.

MR. BURKE: I have the basis for the objection, Your Honor?

THE COURT: I don't think that it is necessary.

MR. BURKE: May I have an exception, then?

THE COURT: Oh, you certainly may. That you are entitled to.

Q. You went out to Coventry first, didn't you?
A. That's right.

Q. And after you left Coventry you went down to Rocky Hill? A. That's right.

Q. And when you got to Coventry you went in a store first, didn't you? A. I think so, yes.

Q. Well, you know so, don't you? A. I believe I did.

Q. Who went in the store with you? A. Taborsky and Culombe.

Q. At the same time? A. I am of that opinion but I am not sure.

Q. Isn't it a fact, Sergeant, that you and another policeman went into the store first and left Griffin and Culombe and Taborsky outside, and then you came back and all five of you went in? Isn't that the way that it happened? A. I am not sure, Mr. Burke. I remember that we went into the store, we came out and they got in the cruiser and then I went back again. Then I asked Culombe and Taborsky to step out of the car for a while and I had somebody look at them then. That is the best of my recollection.

Q. Then from there you drove them down to Rocky Hill? A. That's right.

Q. And you stopped at a package store? A. That's right.

Q. Now, you took them into the package store?
A. That is correct.

Q. Who went into the package store with you? A. What officer?

Q. Yes. A. Well, there was an officer in the package store already with some other people. I presume that they all went in with me.

Q. And then did you all come out together? A. I came out with another person, and an officer, went over to the car and I think the others went into the police car - no, wait a minute. I am a little confused between that trip and the one that we had sometime later. I can't answer that, Mr. Burke. I don't remember.

Q. Isn't it so that while you were in the package store that's when the liquor was consumed in the car by both these men? A. It may have been.

Q. Well, you know it to be true, don't you? A. No, I don't. I am a little hazy on that whole thing. As I said before, I remembered asking somebody that question that Mr. McDonough asked me but I don't remember the circumstances, too much of that.

Q. Well, after you left the package store you went where? A. We went to Tina's Diner in Wethersfield.

Q. Now, isn't that where one of the state policemen threw away the liquar bottle and the ginger ale bottle, empty? A. I think that you are right.

Q. And weren't you in the car when Taborsky asked you where to throw the bottles? A. I think that you are right, Mr. Burke.

Q. And then one of the state policemen took the bottles and threw them in the rubbish at the diner, or the rubbish can, whatever it was? A. I believe that you are right, Mr. Burke.

Q. Now, did you at that time, Sergeant, attempt to ascertain how much liquor was consumed? A. No, sir.

Q. You didn't ask about it at all? A. I must have asked that one question about who allowed this man to take a drink, and beyond that point I -

Q. You knew -

THE COURT: Do you want to finish you answer?

THE WITNESS: I don't remember the exact circumstances of it.

THE COURT: Go ahead, Mr. Burke.

Q. You knew that they had consumed more than a drink, didn't you? A. I don't imagine I did, if I asked that question in that way.

Q. Didn't you know that they had consumed the bottle? A. Assuming that the bottle was full, which I don't think that it was.

Q. Well, how do you know, or why do you think it was not full? You didn't see the bottle, you said.

A. Because when I inquired about it during the recess somebody said there was just a couple of drinks in it.

Q. They didn't tell you that the bottle was almost full only had a couple of drinks out of it? Is that what they told you? A. No.

Q. And that Taborsky drank half of the bottle and Culombe drank the other half? A. Mr. Burke, these people were not intoxicated at any time.

Q. Just answer that question, please. A. No, nobody said that to me.

Q. Nobody said that to you? A. No, sir.

Q. And you didn't ask about that? A. No, sir.

Q. During the recess did you talk to Officer Griffin?

A. I - he was there.

Q. You knew that he was the man driving the car that night, didn't you? A. That's right. I said something about where did this liquor come from.

Q. And wouldn't he be the man that you would ask about it, Sergeant? A. Not necessarily, only because I remembered that he was the one that was with me.

Q. You wouldn't ask Lieutenant Rome about it. He wasn't there, was he? A. No, he wasn't.

Q. But Griffin was? A. Yes.

Q. And you knew that Griffin was the one who let them drink the bottle of liquor, didn't you? A. No.

Q. Didn't you know that Griffin was the one who told them "Go ahead and drink it"? A. I don't remember that, Mr. Burke.

Q. Don't you remember when you asked "Why were these men permitted to drink liquor", you asked Griffin, didn't you?

MR. BILL: When was this, may I ask the Court, at recess, or during the trip?

MR. BURKE: I am talking about during the trip.

THE COURT: I so understood it. I don't know whether the witness did or not.

THE WITNESS: I don't remember when I asked that question and who I asked that question of.

Q. Did you get an answer to your question "Who let these fellows drink?" Did anybody answer that question when you asked it? A. That is the part that I don't remember.

Q. Well, were you content with the answer that you got? A. I must have been. I did nothing further about it.

Q. So if you asked somebody who let a man do this, they must have given you a name? A. Not necessarily. They may have evaded the question. We were pretty busy at that time.

Q. And you would have permitted the evasion?
A. I might have.

Q. Now, you didn't want these men drinking, did you?
A. No, I didn't.

Q. You didn't want them doing anything that you didn't want them to do? A. I didn't want them drinking while they were with us.

Q. And they were under your control, weren't they?
A. They were with us on a voluntary basis at that time.

Q. You were in control of these men, weren't you?
A. Yes, they were in our car. We were driving.

Q. You were controlling their conduct while they were with you? A. That's right.

Q. That is the reason you didn't want them drinking on this trip? A. Well, I didn't think it was proper.

Q. But did you ever find out who permitted them to drink? A. Mr. Burke. I honestly don't remember.

Q. Didn't you find out during recess? A. No, I didn't ask that question.

Q. You didn't ask the question? A. No, sir.

Q. Did you du ng recess try to find out who was with you in the car besides Griffin? A. No.

Q. Did you try to find out during recess whether the other officers saw bottles? A. No. Well, excuse me.

THE COURT: Go ahead.

A. I inquired about this drinking being done - this drinking business because I couldn't remember. I only remembered that one remark, and I was told he had a bottle with him in his personal stuff - that Taborsky had - and that must have been where the remark came from.

Q. Well, his personal stuff was only a bag with two bottles in it - one of liquor and one of ginger ale?

A. That's right.

Q. Before these men went out on tour, you say they were not under arrest or in custody? A. That's right.

Q. Just a personal proposition? A. Yes.

Q. If that is so, why did you search Taborsky before you started out? A. I searched him?

Q. Yes. A. I don't remember searching hi[redacted] would be a natural thing to do, even if he was coming on a voluntary basis.

Q. You searched his pockets and his wallet before you left? A. I personally did that? I don't remember doing that. I may have.

Q. If you didn't do it, your men did? A. I don't remember seeing that.

Q. You know he was searched, don't you? A. I don't know he was searched; it would have been the proper thing to do considering who —

Q. Would you search a man who wasn't in custody or under arrest? A. Well, it would all depend on the circumstances.

Q. Well, if you did search him or had him searched, what authority would you have for so searching him?

MR. BILL: Objection, Your Honor.

THE COURT: Sustained.

Q. Let me asked you this: Did you feel you had a right to search him? A. Under the circumstances, yes, sir.

Q. You felt he was in your control, then? A. Well, it was on a fifty-fifty basis.

Q. Fifty-fifty? A. Yes.

Q. Fifty-fifty he was with you, and fifty-fifty you had him? A. He was going along with us, but we had to be in a position to protect ourselves.

Q. To maintain that he would go with you? A. No, he actually wasn't forced at any time to go with us.

Q. You say you don't recall having his pockets searched or searching his wallet? A. No, I don't remember that.

Q. If you searched his wallet that wouldn't be for weapons, would it? A. It would be for addresses.

Q. You were not afraid of an address to protect you from? A. No, only a tie-in.

Q. Certainly you wouldn't have searched his wallet for a weapon to protect yourself from? A. Not necessarily.

Q. Why did you search his wallet? A. It is routine.

Q. It is routine after a man is presented under arrest or before? A. It depends on the circumstances.

Q. If I were invited over to your barracks, would you search my wallet when I went in?

MR. BILL: Objection.

THE COURT: I will sustain the objection. We will stop here, Mr. Burke. You may escort the accused from the courtroom. The alternates may leave. No, I forget.

I have to give you your instructions. Don't tale to this case to anyone or allow anyone to discuss it with you. Should there be anything in the newspapers you will not read it; should there be anything on the radio or television during the lunch hour, you will not listen to it. When you come back at two o'clock report to the jury room and the alternates to their room. You are now excused.

Sheriff, recess until 2:00 P.M.

(Recess at 12:50 P.M.)

JUNE 6th, 1957 - 2:05 P.M.

(Accused present)

THE COURT: Sheriff, may I have the alternates and the jury?

(Jury and alternates present)

DONALD PAIGE, on the witness stand.

THE COURT: You may proceed, Mr. Burke, whenever you are ready.

MR. BURKE: May I have the last question?

THE COURT: I don't think that you want that. That is the one where you asked about whether they would search you and I wouldn't let him answer.

CROSS EXAMINATION BY MR. BURKE: (RESUMED)

Q. Now Sergeant, I think that you testified that on that Saturday night Taborsky was locked up in the State Police barracks? A. That's right.

Q. Was he under arrest at that time? A. I believe that he wes.

Q. What was he charged with? A. Lieutenant Rome was the one that placed him under arrest.

Q. You don't know what he was charged with?
A. I believe that he was charged with that felony law.

Q. What felony law? A. The one where you can arrest a person on - that you feel has committed or is about to commit a felony.

Q. And was he told that, do you know? A. I don't know, sir.

Q. You didn't tell him? A. No.

Q. Do you know of your own knowledge whether anyone else told him he was under arrest? A. No I wasn't there.

Q. Did you lock him up? A. No.

Q. Do you know who locked him up? A. No, I don't know what officers did.

Q. Did you, or any other officer that you heard, or in your knowledge tell him why he was being locked up?
A. I have no knowledge of that.

Q. Now, in the cell that he was locked up in, that is a pretty bare cell, isn't it? A. It is a regular cell, with a cot.

Q. A cot? It has got a sink, has it? It has water? Are you familiar with it? A. I believe so.

Q. Well, in the sink, for instance, it has a push button arrangement, doesn't it? A. I don't know.

Q. Were any towels furnished to him, do you know?
A. I don't know.

Q. Any soap? A. I don't know.

Q. Or anything furnished to him that he could use to keep himself clean, to your knowledge? A. I don't know.

Q. Do you know whether or not these things were withheld from him? A I don't believe so.

Q. But you don't know, do you? A. No, I don't.

Q. Now, do you recall being in a room with Lieutenant Rome and Taborsky, maybe on Tuesday or Wednesday, and a lot of commotion occuring in the room next door, or across the hall? Do you remember that? A. No, I had very little to do with Taborsky.

Q. Do you recall when you were in a room that Lieutenant Rome came in and over your shoulder said "Get a doctor for that other fellow", meaning Culombe. Do you recall that? A. No, sir.

THE COURT: Keep your voice up.

A. No, I don't.

Q. You have no recollection of that at all? A. No, I haven't.

Q. You don't have any recollection of any such commotion going on in the room that Culombe was it? A. No, sir.

Q. Did you on that Saturday or any other day within the next few days go to see Mrs. Taborsky, Joseph's mother? A. No.

Q. You didn't? A. No.

Q. Did you send anybody out? A. No.

Q. Do you know whether or not anyone else sent anybody out? A. I don't know.

Q. Do you know whether or not anybody there went out there, any state policemen? A. I don't know.

Q. You say that you had very little to do with Taborsky? A. That's right.

Q. Only this tour that you took where the liquor was involved? A. That's right.

Q. That is all that had to with him?

MR. BURKE: I think that's all.

THE COURT: Mr. Bill.

REDIRECT EXAMINATION BY MR. BILL:

Q. Just one question, Sergeant. When you stopped at Rocky Hill at the package store what was the purpose of stopping there?

A. For identification.

Q. Was it an investigation? A. Yes.

Q. That concerned the package store? A. That's right, and others.

MR. BILL: Thank you.

THE COURT: Mr. McDonough?

RECROSS EXAMINATION BY MR. McDONOUGH:

Q. Investigation? Investigation of what, Sergeant? You just told Mr. Bill investigation. In the course of your investigation. A. It was an investigation of something that had occurred there.

Q. All the activities that you testified to were in the course of an investigation of crime, and that investigation carried several trips about Connecticut, didn't it?

A. We had this one trip and then one more.

Q. Did it take any trips into Massachusetts on your part? A. No, sir.

Q. You didn't go to Massachusetts? A. No, sir.

Q. Now, you said in the course of this investigation—

and by the way, when you were answering my questions on cross-examination you could not recall the dumping of the bottles in an ash can at Rocky Hill, or at the Wethersfield Diner, but I think in answer to Mr. Burke's questions you did recall that bottles were thrown into an ash can.

A. I said that I recall something about that. I am not so very clear on that.

Q. During the morning recess, before you took the stand, you testified you refrsehed your recollection by talking to other state police officers. During the noon recess have you refreshed your recollectino by talking to state police officers? A. No, sir.

Q. Have you discussed your testimony or any testimony in this case during the noon recess with other state police officers? A. Nothing that I can remember.

Q. Now, you told Mr. Burke, that you didn't —and possibly I am wrong. Correct me if I am. I don't know whether you said you did not recall hearing someone shout from the room that Culombe was in to get a doctor. Did you so testify? A. I said that I didn't remember anything like that.

Q. Now, we will come back to your memory. Will you say that no one did shout from the room where Culombe was being questioned, "get a doctor"? A. To the best of my knowledge

Q. To the best of your knowledge, but you won't deny that such a thing occurred, will you?

A. Well, I didn't hear it.

Q. Culombe was badly in need of a doctor, wasn't he, during the course of this investigation? A. No, sir, not that I know of.

Q. When the investigation was all over and when he was brought into this court he was pretty well tired out,

wasn't he? Physically tired out and it was apparent to you, wasn't it? A. He needed a shave.

Q. He needed a shave and he needed a rest, didn't he?
A. I suppose so.

Q. Yes. He hadn't been given much sleep, had he?
A. Yes, he had.

Q. In the course of your investigations at State Police Headquarters or at this investigation did you use a lie detector or was one used, to your knowledge? A. No, sir.

Q. You know what hypnotism is, don't you?
A. Yes, sir.

Q. Was any hypnotism tried on Culombe. A. No, sir.

Q. And I ask you this, Lieutenant—or Sergeant. Did you ask Culombe "Did you ever take a lie-detector test?" Did you ask him that question and did he answer "No"?
A. I don't remember asking him that.

Q. Your answer is that you don't remember? Do you remember a reply—a statement to him relative to a lie detector. "Would you like to take one?" And he answered "Yes." A. I don't remember any questions about a lie detector.

Q. Did you ask Culombe, "Were you ever hypnotized?" And he answered "No"? A. No, I don't remember that.

Q. And did you say to him in relation to hypnotism, "You could be?" A. I don't remember talking to him about that at all.

Q. You don't know whether an attempt was made to have Culombe think that he was being hypnotized, do you? A. Would you mind repeating that?

MR. McDONOUGH: Don't laugh. This is a serious question.

THE COURT: No, I will have it read for you. Read it, Mr. Burke.

(Last question read by reporter).

A. Not to the best of my knowledge.

Q. Well, there was great pressure brought to bear on Culombe? You know what I mean by "pressure", don't you, Sergeant? A. I know what you mean by "pressure".

Q. And it was used on Culombe, wasn't it? A. Not while I was there, sir.

Q. Wasn't a lack of sleep, long hours of questioning, pressure? He needed a shave, needed to be cleaned up? Wouldn't you call that pressure? A. If that was true.

Q. Well, he did have lack of sleep, didn't he? You testified to that, as I understood you.

A. No, he slept every night.

Q. Well, he was questioned by various officers, wasn't he? Details of officers?

A. He was spoken to by other officers other than myself.

Q. Spoken to is what you call it? For an hour at a time or more? A. I believe so.

Q. You did not go to New Britain when he was brought to New Britain, did you? A. No.

Q. Do you know who took Culombe to New Britain?

A. I know that Lieutenant Rome was there. I don't know who else was there.

Q. He was in charge of the New Britain trip?

A. That's right.

Q. You do know that Culombe was booked at State Police Headquarters, don't you? A. He was booked in New Britain.

Q. Do you that he was booked in Hartford also before he was taken to New Britain? A. I don't know that.

Q. And about the New Britain booking, all you know is what you were told, because you weren't there?
A. That's right.

Q. When did you last question Culombe?
A. Wednesday afternoon.

Q. And he was arrested on the following — on a previous Saturday? A. That's right.

Q. You didn't question him at all since I walked into State Police Headquarters, did you? A. No.

Q. He had been kept at State Police Headquarters up until that point, hadnt he? A. Up until the day that you got there?

Q. Yes. A. No.

Q. Hadn't he been in custody at State Police Headquarters all that time? A. No, sir.

Q. Where had he been? A. Wednesday morning I went over to the county jail and brought him back to police headquarters.

Q. That is, he was in county jail Tuesday night, is that it? A. That's right.

Q. All day Tuesday he was in the State Police Headquarters, wasn't he? A. He was in court in New Britain, Tuesday.

Q. And he was brought from the New Britain Court to State Police Headquarters, wasn't he? A. That's right.

Q. And he was there in the afternoon when you questioned him? A. Tuesday?

Q. Yes. A. Yes. He was there. I don't remember what time they got back from New Britain.

Q. And he was there Tuesday night too, wasn't he? A. Tuesday, part of the evening.

Q. Did you hear anyone call Culombe a goddamn liar? A. You will have to refresh my memory — I don't remember anything like that.

Q. Was he called other names? A. Not that I know of.

Q. It is that your memory doesn't work up to that point, is that right? A. That is right.

Q. Well, did Lieutenant Rome call him a goddamn liar? A. I don't remember any such incident.

MR. McDONOUGH: That is all.

THE COURT: Anything further, Mr. Bill?

MR. BILL: Nothing.

THE COURT: Anything further, Mr. Burke?

MR. BURKE: Just one or two.

CROSS EXAMINATION BY MR. BURKE:

Q You were here when Taborsky was brought in for presentation? A. Here in court?

Q. Yes?. A. Yes.

Q. You noticed then he wasn't clean? A. That he wasn't shaven.

Q. Yes. A. He stated so,

Q. And he wasnt clean either — he had nothing to clean with,—do you remember that? A. I don't know. He had been at the County Jail.

Q. He had been in the Police Barracks, too, prior to that, when he was taken from the Police barracks to the County Jail. A. That was on Tuesday.

Q. Tuesday night? A. Yes.

Q. And then he was brought into this court when? A. Thursday.

Q. Now, from Saturday until Tuesday night he wasn't given an opportunity to clean up, was he? A. I imagine he washed. I wasn't in charge of him. I had nothing to do with Taborsky.

Q. Didn't you know there wasn't anything in the cell to wash with? A. He wasn't in the cell all of the time.

Q. He wasn't permitted to wash anywhere else was he? A. I don't know, you will have to ask Lieutenant Rome that question.

Q. You didn't question him at all? A. The only thing I had to do with him was that trip until the end.

Q. You are sure that when Taborsky was presented in this court he was taken from the County Jail here? A. Thursday he was brought from County Jail and stopped at the barracks and then brought over here.

Q. Stopped at the barracks — he didn't stay overnight Wednesday night in the barracks? A. I don't believe so.

Q. You don't think he was. Who brought him over here? A. I don't know.

Q. Well, were you on the detail that transported him across the road? A. I was with Culombe that Thursday.

Q. Well, Taborsky was with you, too, wasn't he?
A. No, we were in two separate groups, if I remember.

Q. In two separate groups? A. Yes.

Q. And you kept them separated all of the time?
A. They were separated to the best of my knowledge.

Q. And you didn't let one know what the other was doing, did you?

THE COURT: Is that a question?

MR. BURKE: Yes.

THE COURT: Read it. Mr. MacGlashan.

(The reporter read the qusetion.)

A. I don't believe so.

Q. Did you notify Taborsky's wife he wsa under arrest and locked up in the barracks? A. I didn't.

Q. Did you notify his mother? A. I didn't.

Q. Did you notify anybody? A. I didn't.

Q. Do you know whether anybody else did?
A. You will have to ask Lieutenant Rome that question.

MR. BURKE: That is all.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. Do you know where Mrs. Culombe is right now?
A. No, I don't.

Q. Did you talk to any other Officers this noon about her?. A. No.

MR. McDONOUGH: That is all.

RECROSS EXAMINATION BY MR. BURKE:

Q. One question. This noontime you were downstairs, weren't you? A. Yes.

Q. Did you tell the officers down there when you were down there that if they didn't know the answer to something to say they didn't remember? A. No, sir, I did not.

Q. You didn't say that? A. No, sir.

MR. BURKE: All right.

THE COURT: Anything further, Mr. Bill.

MR. BILL: Nothing further.

THE COURT: You may step down.

(Witness excused).

SAMUEL ROME, a witness on behalf of the State, being first duly sworn by Mr. Coburn, testified as follows:

By Mr. Coburn:

Q. Your full name? A. Samuel Rome.

Q. Your address? A. 69 Mountain Avenue, Bloomfield.

DIRECT EXAMINATION BY MR. BILL:

Q. Your title? A. Lieutenant.

Q. How long have you been employed by the Connecticut State Police Department? A. A little over nineteen years.

Q. And how long have you been a Lieutenant?
A. A little over two years.

Q. What is your official position over there as far as your duties and activites are concerned? A. I am Lieutenant attached to the Detective Division, State Police Department.

Q. And as such were you called in at sometime to conduct an investigation on these killings down in New Britain—Kurpiewski and Janowski—on December 15, 1956?
A. Yes, sir, I was.

Q. As a result of the commencement of that investigation, what did you do—first off, when was it you entered this case? A. On December 18, 1956.

Q. Did you contact the New Britain Police Department? A. I did.

Q. Did you spend some time in New Britain?
A. Considerable time, yes.

Q. Did you make an investigation of the gasoline station? A. Yes, sir, I did.

Q. Did you go over the facts and the matters with other Police then investigating the case? A. Yes, sir.

Q. Then on February 23, 1957 did you see Culombe—Arthur Culombe and Joseph Taborsky—on that day?
A. Yes, sir, I did.

Q. Where? A. At State Police Headquarters, Detective Division.

Q. And whether or not you commenced an investigation at that time? A. I did.

Q. Will tell us as best you can, and in consecutive order, as best you can, what took place that Saturday as far as you were concerned in the investigation? A. It was decided by other Officers of the Department that the two men, Taborsky and Culombe be picked up and viewed by witnesses.

Q. This was prior to the time they were picked up on that day? A. That is right.

Q. Go ahead. A. And this was within my province

and I delegated two or more teams to go to different addresses where these men would be located. They were believed to have been togehter—

MR. McDONOUGH: I object to what was believed.

THE COURT: That may go out and the jury will disregard it.

Q. Were you at that time investigating other incidents? A. Yes, sir.

Q. Other than the New Britain matter? A. Yes, sir.

MR. McDONOUGH: I object and move to strike it out as immaterial and irrevelant.

THE COURT: Deny the motion.

MR. McDONOUGH: Exception.

THE COURT: Certainly.

THE WITNESS: Yes, sir, I was investigating other incidents.

Q. Was it in connection with some of these incidents you are now discussing? A. Yes, sir.

Q. Will you tell us what happened then?

MR. McDONOUGH: May I have that last question?

THE COURT: Read it, please.

(The reported read the two previous questions.)

A. I delegated and assigned more than two groups to pick up Joseph Taborsky and Arthur Culombe. As a result of those instructions they were brought to State Police Headquarters.

Q. That is when you first saw them? A. Yes, sir.

Q. And what did you do then concerning either or both of these men? A. I first laid eyes on Joseph Taborsky

when he was in my office. I was informed he was in my office and I went upstairs and I was seated at my desk and I talked to him and looked through his wallet.

Q. What did you do that for?

MR. McDONOUGH: I object to that.

THE COURT: Sustained.

A. And asked him—

THE COURT: There is no question pending. I sustained the objection.

Q. Go ahead and tell what you were doing after you looked at his wallet. A. Asked him whether or not he would accompany officers to some spots to be looked at for identification purposes. Joseph Taborsky agreed. I asked the same of Arthur Culombe and it was agreed with him, and the contingent left under the direction of Detective Sergeant Paige.

Q. Did you go on this trip? A. No, sir, I did not.

Q. Now at sometime did these two men return to State Police Headquarters? A. They did—later that afternoon.

Q. And did you then go on with the investigation? A. Yes, sir.

Q. And what took place then? First off, let us get the time if we can so we know about where we are. About what time did they take the trip? A. They took the trip between three and four o'clock I would say.

Q. In the afternoon? A. Yes, in the afternoon.

Q. On the 23rd of February? A. Yes.

Q. Do you know about when they returned? A. Around six—I am guessing.

Q. Were you at State Police Headquarters? A. Yes, sir.

Q. Is that where they were returned to? A. Yes, sir.

Q. Did you do anything further then and there in connection with the investigation? A. Yes, sir.

Q. What? A. I talked with both these men singly.

Q. Who did you take first? A. I believe Joseph Taborsky.

Q. What did you talk about? A. I told him we were investigating a crime in New Britain and other incidents and wanted to know whether he would answer some of my questions if it was agreeable to him, and we talked on one matter or another until fairly late, at which time County Detective Eddy Matus and I took Joseph Taborsky to a restaurant to feed him.

Q. Is this Saturday night? A. Yes.

Q. What was Taborsky's attitude—cooperative or hostile? A. Cooperative.

Q. Did he object during this time to talking on anything you asked him? A. Not at all.

Q. You say then Mr. Matus joined with you and you went somewhere? A. We went to the restaurant to feed him. We couldn't get a respectable meal at the barracks at that hour.

Q. What time was this? A. Eight or nine o'clock at night.

Q. Who went to the restaurant? A. Joseph Taborsky, Eddy Matus and myself, I believe.

Q. And what about Culombe? A. He was taken care of by Sergeant Paige.

Q. He didn't go to dinner with you? A. Not with us at the time.

Q. And then after dinner what happened? A. It was after—It was during dinner that I told Mr. Taborsky that I was strongly of the opinion he was connected and guilty of these crimes and I would attempt to prove it and he said, "That's your job."

Q. "That's your job"? A. That's right.

Q. Now, what happened after dinner? A. We returned to the barracks and I continued to talk to Joseph Taborsky, particularly about the New Britain incident, and he said that he was in the State of Connecticut on the 15th of December and he visited his mother's home and that he stayed with his mother at his mother's home all that evening and the next day he went back to his home in New York—the following night.

MR. McDONOUGH: What date was that?

THE WITNESS: He came on Friday the 14th, stayed all night and returned Saturday night.

Q. Now, he told you that Saturday night in that discussion? A. Yes, sir.

Q. And was that topic brought up at a later time with him? A. Yes, sir.

Q. Now, in the meantime did you do some checking? A. Yes, sir.

Q. And as a result of some checking, did you talk to Taborsky again about this Friday evening and Saturday incident he spoke of? A. I did.

Q. What did you say to him?

MR. McDONOUGH: Just a moment, please, I object. The only question that was put was did you do some

checking. I move to strike the question and the answer—did you do some checking—as being immaterial and irrelevant to this case.

THE COURT: I deny the motion.

MR. McDONOUGH: May I have an exception.

THE COURT: Surely. Read the last question, Mr. MacGlashan.

(The reporter read the last two questions.)

Q. First off, I will withdraw that. When was this second conversation about this incident? A. Later that night.

Q. That night? A. Saturday night.

Q. Later that Saturday night? A. That Saturday night, yes.

Q. And what did you say to Taborsky if anything? A. I told Joseph Taborsky I had checked—caused a check to be made on his story with his mother and that he wasn't telling the truth. We talked about that for sometime and finally Joseph admitted he was lying and said that he spent the night in a gambling house in Hartford.

Q. Which night? A. Friday night.

Q. That was Saturday night that this conversation took place? A. That is right.

Q. Anything else happen during this conversation? A. I talked to him further about these New Britain killings and he said he wouldn't admit to them because of the affect it would have on his mother even if he were guilty.

Q. Anything else take place? A. No, other than I talked with Culombe.

Q. You talked with Culombe? A. Yes, sir.

Q. Saturday night? A. Yes, sir.

Q. Before or after your conference with Taborsky?
A. I am of the opinion it was before and after—I am not sure—I talked with him.

THE COURT: You are speaking of Joseph Taborsky.
A. I am of the opinion it was before and after I talked to Joseph Taborsky.

Q. Do you remember anything significant about your talks with Culombe that night?

MR. McDONOUGH: I object to the form of the question.

THE COURT: Sustained.

Q. Do you remember anything about what was said either by you to him or him to you in your talk with Culombe that night?
A. I remember he denying that he was with Taborsky —he had been with Taborsky at anytime prior to that day, Saturday, that he was picked up, and Taborsky also made the same denial that he and Culombe were together at anytime.

MR. McDONOUGH: I move to strike the last part of the answer.

THE COURT: The last part may go out as non-responsive and the jury will disregard it.

Q. Anything else? A. I locked him up—I ordered him locked up for the night at the State Police Barracks.

MR. BURKE: Who was ordered locked up?

THE COURT: I will have the question read. That is all you are entitled to. Read it, Mr. MacGlashan.

(The reporter read the last answer.)

Q. Who was the person you are indicating there?
A. Them both.

Q. Now, the next day was Sunday. Was there any investigating done the next day on Sunday? A. Yes, sir.

Q. What did you do? A. We made an attempt to find the gambling house where Joseph Taborsky would have spent or could have spent that night on December 14.

Q. Did you have any success? A. No, sir.

Q. What else did you do—did you talk with either Culombe or Taborsky that day—Sunday? A. Talked with both of them.

Q. Did anything develop there in your conversation?

MR. McDONOUGH: I object to the form of the question.

THE COURT: What is the objection?

MR. McDONOUGH: The form of it — did anything develop. That is asking for a conclusion. It is like Tom Jones talking with Jack Brown and talking about what happened in the Red Sox game.

THE COURT: Don't be bringing up the pleasant things. It doesn't necessarily mean it is a conclusion.

MR. BILL: I will withdraw it. I think it is—

MR. McDONOUGH: You think what?

THE COURT: Never mind.

Q. During Sunday did you have any conversation with Culombe? A. I did.

Q. Did you have any conversation about the New Britain matter with Culombe? A. I did.

Q. Do you remember anything that was said by either of you to him in connection with the New Britain incident on Sunday? A. I do not.

Q. Taborsky — did you have any talk with him in connection with the New Britain affair on Sunday? A. I did.

Q. How many times did you talk to him? A. I don't know—on and off perhaps.

Q. Is that true of Culombe too? A. Yes, sir.

Q. Do you remember anything that you or Taborsky said concerning the New Britain affair that took place on Sunday? A. Nothing significant that I recall now.

Q. Now, coming to Monday, will you tell us what took place in connection with these two men — withdrawn. Where did they stay, these two men, on Sunday?

A. Stayed at the barracks.

Q. State police barracks? A. That's right.

Q. Now, on Monday will you tell us what happened in connection with these two men?

A. Monday we continued to talk to them, brought them to New Britain, talked with the prosecutor. We booked them at New Britain Police headquarters.

Q. On what charge? A. Breach of the peace.

Q. Both of them? A. Yes, sir.

Q. Was a bond placed? A. Yes, sir.

Q. How much was the bond? A. Twenty-five thousand dollars each.

Q. Each? A. Right.

Q. And what happened then that day?

A. We asked for a continuance until the 5th of March.

Q. Well, this was on Monday. A. I am sorry.

We returned—they were to appear at the New Britain police court the following day.

Q. So we won't be confused, this was Monday, and at what time in the morning or afternoon?

A. In the afternoon, around noon.

Q. In the afternoon? A. Yes, sir.

Q. You took these two men down to police headquarters in New Britain? A. Yes, sir.

Q. And the two men were booked down there on the charge of breach of the peace, is that what you said?

A. Yes sir.

Q. And a bond was fixed, each, of twenty-five thousand dollars? A. Yes, sir.

Q. Was the Court assignment date fixed at that time? A. Yes, sir.

Q. And what was the time? A. The next morning.

Q. That would be Tuesday? A. Yes, sir.

Q. And that would be the 26th, is that correct?

A. That is right.

Q. Now, what happened during Monday?

A. We returned them to the barracks.

Q. And did anything happen there? Did you have any conversations with these two men or either one of them?

A. I talked with them.

Q. Do you remember anything that was said either by you or either one of them about the New Britain incident?

A. Not about the New Britain incident.

Q. You say that you were talking to these men. Was it all confined to this New Britain incident? A. No, sir.

Q. Or are there other matters? A. Other matters. The New Britain incident and other matters.

Q. Now, what happened on Tuesday — before we get there, what happened Monday night? Where did they stay? A. At the barracks.

Q. And Tuesday what happened? A. Tuesday they were brought to New Britain police court.

Q. Brought before the court there? A. Yes, sir.

Q. And what was the disposition, if you know?
A. The case was continued to March 5th.

Q. That was a week from that particular date?
A. That's right.

Q. And was the bond fixed? A. Yes, sir, twenty-five thousand dollars.

Q. And where — what did you do then? A. I took them back to the state police barracks.

Q. And what happened then? We continued to interrogate them, I did, with other officers, and I talked with Mrs. Culombe, went to her home and talked with her.

Q. And how long were you there? A. I was there perhaps a half hour with officer Moran, I believe, and policewoman Doris Murtha.

Q. And when that was completed what did you do?
A. I asked her if she would come to the barracks—

Q. I don't want any conversation between you and Mrs. Culombe. I have avoided that particularly.
A. I asked her if she would come to the barracks later—

MR. McDONOUGH: I object to any conversation.

Q. I am not claiming it, Lieutenant. I think that you misunderstood me. A. I did.

Q. I don't want any conversation between you and Mrs. Culombe. That would be hearsay. I did ask you, however, what happened after you saw her?
A. I later saw her at the barracks.

Q. Saw who? A. Mrs. Culombe.

Q. And you went back there to the barracks?
A. I returned to the barracks.

Q. Did she come with you? A. She didn't come with me. I don't recall her coming with me. I think that the policewoman picked her up later.

Q. And you say that you saw her at the barracks?
A. Yes sir.

Q. This was on what day? A. Tuesday.

Q. Did you talk with her there? A. I did.

Q. Did you talk with Culombe? A. I did.

Q. Did you talk with them together? A. I did.

Q. Did you talk with them separately? A. I talked with Mrs. Culombe first. Then I had her come into the room where Mr. Culombe was.

Q. So your talk was with Mrs. Culombe first, at headquarters, and then with both of them afterwards?
A. Yes, sir.

Q. Is that correct? And was there any talk about the New Britain matter there?

Mr. McDONOUGH: Which conversation was this?

Q. With Culombe, or only when Culombe was present, is all I want.

A. Culombe's wife asked him whether or not he was responsible for these incidents, the New Britain affair, and if he was to confess to the police and tell them the truth. He said to his wife "I can't confess, because if two people go out to hold up a place and one goes inside and kills a man I would be responsible the same as the other guy."

Q. Anything else? A. Mrs. Culombe told him that if he was guilty she would press the button herself.

Q. Anything further? A. Mrs. Culombe then agreed to accompany me to the room where Joseph Taborsky was.

Q. Did you go there? A. I took Mrs. Culombe and we went to talk to Joseph Taborsky.

Q. Mrs. Culombe and you and Joseph Taborsky? A. Yes, sir.

Q. Anybody else? A. I don't recall.

Q. What was said there? A. I remember her throwing her bag down—her handbag down on the floor, and she started to charge at Joseph Taborsky, accusing him of causing her husband a lot of trouble.

Q. Did Taborsky respond to that? A. No. He remained very quiet. Of course, I got in between them to see that she wouldn't do anything that was wrong.

Q. How long did that last, that meeting? A. Probably ten minutes.

Q. And where were these rooms? For instance, I understood you to having had a conference with Mrs. Culombe and Arthur Culombe and yourself. What room was that in? A. I am of the opinion that I talked with Mrs. Culombe in Captain Schwartz's office.

Q. I mean, where did you have your meeting with the three of you. Culombe, Mrs. Culombe and you?

A. That was upstairs in the Detective Division.

Q. And where was Taborsky at that time? A. He was in another room.

Q. In another room? A. Upstairs.

Q. Did you go from this room that you speak of, to the other room where Taborsky was?

A. Or I had Taborsky brought up to this same room afterwards.

Q. You don't remember? A. No, I do not, Mr. Bill.

Q. Anything that you remember that happened during Tuesday after that?

A. We took them over to the county jail and locked them up for the night.

Q. They were over the county jail, both of them?

A. Yes, sir.

Q. And now comes Wednesday, February 27th, and you say they were both at the jail. What happened then, if anything? A. I talked to Sergeant Paige, amongst other officers and detectives that morning.

Q. I don't care about the converstaions with the officers. In connection with Culombe and Taborsky what happened? A. Sergeant Paige brought Culombe over to the barracks.

Q. And what about Taborsky? A. Taborsky remained at the county jail.

Q. All Wednesday? A. I am of the opinion all day and all night.

Q. And did you have a conference with Taborsky on Wednesday? A. With Taborsky?

Q. I am sorry, Culombe? A. I talked with Culombe about two-thirty. He was in a room with Detective Sergeant Paige and Detective Robert Murphy.

Q. And you entered the conversation, did you not, going on between Culombe and Sergeant Paige and Sergeant Murphy, is that right? A. Yes, sir.

Q. Does that cover the period as far as you remember, between the time that these men were brought to headquarters on Saturday, February 23rd, up until Wednesday afternoon, at the point where you entered the conversation with these men? A. As well as I can remember right now, Mr. Bill, yes.

MR. BILL: Your witness.

THE COURT: Mr. McDonough?

CROSS EXAMINATION BY MR. McDONOUGH:

Q. Has this concluded your investigation, Lieutenant?
A. No sir.

Q. You mean you haven't told us all of this New Britain case? A. No, sir.

MR. BILL: Your Honor, may I state that there are more things from here on in about Sergeant Paige's and his testimony that will have to be heard in the absence of the jury, as probably Mr. McDonough well knows. It would be improper for me to go any further than Wednesday.

MR. McDONOUGH: You mean, Mr. Bill, there may be a later offer? Later you will make another offer of evidence?

MR. BILL: Oh, yes, but from now on it will have to go before the judge.

MR. McDONOUGH: All right.

MR. BILL: So I came to Wednesday and stopped.

MR. McDONOUGH: If that is the way that you are proceeding, it is perfectly all right.

MR. BILL: He may not know. I had to tell you.

Q. Well, Lieutenant, you first saw these two men on Saturday afternoon when they were brought to headquarters under your instructions, is that right? A. Yes, sir.

Q. And who brought them to headquarters? A. I don't know who brought them. I know who was instructed to bring them.

Q. You didn't see them brought in? A. No, sir.

Q. But they were brought to headquarters?
A. They were.

Q. Were they brought to your office? A. Yes, sir.

Q. Where is your office in headquarters?
A. The third floor, headquarters' building.

Q. Where is Captain Schwartz's office? A. Across the hallway from mine.

Q. Captain Schwartz is the head of what is known as the Special Service Division of the State Police Department? A. He is.

Q. And you are the lieutenant under Captain Schwartz? A. Yes, sir.

Q. And your offices are on the same floor? A. Yes, sir.

Q. One across from the other on the hallway?
A. Yes, sir.

Q. Is that right? Now, were they brought to your office or to Captain Schwartz's office? A. My office.

Q. Was Captain Schwartz in at the time? A. I don't believe that he was.

Q. Where is the interrogation room that has been referred to? A. That is across the hall from Captain Schwartz's office and toward the front of the building from my office.

Q. On the same floor, off of the same hall? A. Yes, sir.

Q. Toward the front of the building? How far from your office is the interrogation office?

A. It joins it.

Q. Adjoining? A. Yes, sir.

Q. Is there a transom on the interrogation room?

A. No, sir.

Q. Is there a transom in your office? A. No, sir.

Q. Is there a transom in Captain Schwartz's office.

A. I don't believe that there is.

Q. Are there means of communication between the three offices other than telephones? A. Yes, sir.

Q. So that sounds in one room can be heard in another? A. Not necessarily.

Q. But if noise is made in one room, if that means of communication is turned on it can be heard in another room, a conversation, for instance?

A. If that means of communication is turned on, yes, sir.

Q. And, for example, if Culombe's wife was in one room and crying while undergoing an interrogation, and the system was turned on, if Culombe was in another room he would be in a position to hear it, wouldn't he?

A. Mr. McDonough—

Q. Answer the question, please.

MR. BILL: Objection, Your Honor.

THE COURT: I agree. You shouldn't caution the witness, Mr. McDonough. The only one who can instruct a witness is the Court. I agree he should be instructed, but I think that that is my job.

MR. McDONOUGH: Very well.

THE COURT: All you have to do, Lieutenant, is answer the question if you understand it, and, of course, if you don't understand it, say so. Will you answer the question?

THE WITNESS: Could he repeat the question?

THE COURT: I will have it read. Read it, Mr. Burke, please.

(Last question read by reporter.)

MR. BILL: Objection.

MR. McDONOUGH: Claim it, Your Honor.

THE COURT: What is the objection?

MR. BILL: An assumed set of facts.

MR. McDONOUGH: Cross-examination.

MR. BILL: And the facts are not a reality.

THE COURT: That may very well be but I will overrule the objection and allow it as proper cross-examination. Do you want it read again or are you familiar with it?

THE WITNESS: I beleive that I am familiar with it.

THE COURT: Answer it, if you can.

A. Yes, sir.

Q. Now, you said there were two sets of teams — "I delegated two teams." By that you mean two groups of officers? A. Yes, sir.

Q. To work on the investigation with you? What are the names of the officers that you delegated to work on the teams?

A. Sergeant Donald Paige and Officer Robert Riemer and another team was Officer Ferderick Moran and Officer Eugene Griffin.

Q. Officer Frederick Moran and Officer Eugene Griffin on one team, and Sergeant Paige and who else on the other?

A. Robert Riemer.

Q. Any other officers on those teams? A. Not on those teams.

Q. When was Culombe placed under arrest?

A. Oh, ten o'clock that night, Saturday night.

Q. Saturday night? A. Yes, sir.

Q. When was he taken into custody? A. He was invited to come to the barracks—I saw him at the barracks at 2:25, I think.

Q. At what time? A. 2:25.

Q. That is when he was taken into custody?

A. That is when he was invited to come to the barracks.

Q. I didn't ask you about an invitation. "Custody" is the word that I used.

MR. BILL: Objection, Your Honor. It is a legal term. I think that we are quibbling.

MR. McDONOUGH: I will withdraw the question. I won't quibble.

Q. Do you know what "custody" means? A. I believe I do.

Q. Did you take Culombe into custody? A. At ten o'clock that night.

Q. Before that he was not in custody? A. I would say no.

Q. He was free to come and go? A. He didn't test it.

Q. Never mind about testing it. Was he free as far as you were concerned? A. Yes.

Q. He could have walked out of State Police Headquarters and said "Don't bother me, I'll see you later"?
A. I would like to see him do it.

Q. You said "I'd like to see him do it?"
A. No, I don't know what would happen if he did it. He was not in custody.

Q. Did you say that, "I'd like to see him do it"?
A. I did.

Q. I think that answers the question. All right.
A. I mean, I don't know—

THE COURT: There is no question pending, Lieutenant.

THE WITNESS: Excuse me.

THE COURT: You have answered the question.

Q. You took him for a ride later on, by invitation?
A. No, sir.

Q. You didn't? The sergeant did?

THE COURT: Mr. McDonough, I don't know about the witness. I am having a little trouble hearing you.

MR. McDONOUGH: I'm slipping.

THE COURT: I wouldn't say that. I am just saying I am having trouble hearing you.

Q. Sergeant Paige took Culombe for a ride with Taborsky, didn't he? A. For investigation.

Q. Yes, but he took him for a ride, for whatever purpose? A. Yes, sir.

Q. He didn't take them to get the air and see the countryside, did he? A. No, sir.

Q. You were in charge of this investigation, weren't you, Lieutenant? A. I was.

Q. Do you know that on that ride they were wined and dined by your officers, men under your command?
A. No, sir, I do not. I heard it for the first time in the courtroom this morning.

Q. Is that the first time that you heard it, Lieutenant?
A. Yes, sir.

Q. They were brought for the purposes of identification to Coventry, weren't they? A. Ye. sir.

Q. And then they were brought for purposes of identification to Rocky Hill? A. Yes, sir.

Q. Culombe was not identified by anyone in Coventry, was he?

MR. BILL: Objection, Your Honor.

THE COURT: What is the purpose, Mr. McDouough?

MR. McDONOUGH: I will withdraw it.

THE COURT: Very well.

Q. They were brought back to the barracks at w iat time, Lieutneant?

A. I am of the opinion that it was around six o'clock.

Q. Were you at the barracks when they were brought back? A. Yes, sir.

Q. Had you had your dinner up to that time?
A. No, sir.

Q. When Culombe was brought in to State Police Headquarters had he been questioned by you up to six o'clock in the afternoon? A. Yes—

THE COURT: Do you want it read? Read it, Mr. Burke.

(Last question read by reporter.)

A. Before, yes.

Q. Before six? A. Yes, sir.

Q. When was the first time, Lieutenant, that Culombe was questioned by you? A. I don't remember.

Q. Well, was it before they went to Coventry?
A. It could have been.

Q. Before they accepted the invitation to go to Coventry, Culombe was questioned by you? A. It could have been.

Q. Well, was he or wasn't he? Never mind the could have.

A. I talked with Arthur Culombe before, so I am quite sure — on Saturday.

Q. It is important that you remember. Did you talk to him before you went to Coventry? A. I don't remember.

Q. But you do definitely know you talked to him after he returned from the ride? A. Yes, sir.

Q. Now, you said they went on this trip you designated Paige to be the commanding officer on? A. Yes.

Q. They were invited to go? A. They were asked.

Q. They were requested to go? A. That's right.

Q. Weren't they told to go? A. No, sir.

Q. You say Culombe agreed to go? A. Yes, sir.

Q. He had no choice in the matter, did he?
A. I feel he did.

Q. You think he did? A. I feel he did, yes, sir.

Q. Well, did he say no, he didn't want to go? A. No.

Q. He went along anyway? A. He did.

Q. Now, you know Culombe's background, don't you?
A. I learned about it after his arrest.

Q. You learned about it before you questioned him in the State Police headquarters, didn't you? A. What background do you have reference to, Mr. McDonough?

Q. Mental hospitals, Bridgewater, the Wrentham School? A. I learned about that after his arrest.

Q. Before you questioned him? A. I learned about his other background.

Q. But you didn't learn about his mental background before you questioned him? A. No, sir.

Q. You started questioning Culombe by assuming he was a mentally sound person? A. Yes, sir.

Q. But later on you found he had received treatment —let us put it that way. A. He told me he had been in an institution and it came as a surprsie to me.

Q. Culombe has done time—he is an ex-convict.
A. That is the part I knew about.

Q. That is how you happened to pick him up? A. Yes.

Q. And that appeared in his record, that he had been to the Wrentham School and Mental Hospital, and was confined in the Bridgewater State Hospital,—didn't you know that from your record? A. No, sir, it came as a surprise about this mental situation.

Q. When did it come as a surprise? A. Detective Matus was there and asked me to ask that question.

Q. Was that after Culombe was picked up that it came as a surprise? A. Yes, sir, he told me about it.

Q. That is the first time you knew it? A. Yes, sir.

Q. Didn't you show pictures of Culombe to anyone before you picked him up? A. Yes, sir.

Q. Where did you get those pictures? A. Our Identification Bureau.

Q. And what were those pictures of? A. Arthur Culombe.

Q. And where were they obtained—Connecticut State Prison, weren't they? A. I don't know. I got them from our Identification Bureau.

Q. And that Identification Buraeu got them from the Prison files, didn't they? A. We do our own photography too, Mr. McDonough. It could be.

Q. You mean you had Culombe in before? A. I don't know. I don't know where the pictures came from.

Q. You had his pictures in your files before he was picked up? A. Yes.

Q. So that you did know he had a record? A. Criminal background, yes.

Q. So that you were not surprised when Mr. Matus told you that? A. He didn't tell me.

Q. What did he tell you? A. He asked me to ask Mr. Culombe when I was doing some writing about his schools he attended. He mentioned Bridgewater and it was new to me, and Culombe told me what kind of a school it was, and that was the first time I knew about it.

Q. You don't have pictures in the State Police files that are school pictures, do you?

MR. BILL: I object to that. He is talking about his mental background.

THE COURT: I do think, Mr. McDonough, you and the witness are talking about two different things.

MR. McDONOUGH: I am talking about the Prison records.

THE COURT: I do think there is confusion on it.

Q. We will try to straighten it out. I am talking about the prior prison record Culombe had. Didn't you know before he was picked up he had a prison record?
A. Yes, sir.

Q. As a matter of fact, when you were checking these various incidents, you had his picture with you and you showed it to people, didn't you? A. I don't remember doing that.

Q. But you did know he had a prison record?
A. Criminal record, yes.

Q. Now, before you began to question him, Mr. Matus, attached to the County Detective's office, told you about his mental record, didn't he? A. No, sir.

Q. What did Mr. Matus tell you? A. We came to that part of his school . . .

Q. What schooling? A. Culombe's.

Q. What part? A. I asked some questions about Bridgewater.

Q. Do you know what Bridgewater is? A. Mr. Arthur Culombe told me.

Q. What did he tell you? A. A school for feeble minded people.

Q. A school for the insane. It is an insane institution, isn't it? A. I don't know.

Q. A Massachusetts State Hospital. A. I don't know that.

Q. Did he also tell you he was a year or more in the Wrentham State Mental Hospital? A. I don't remember that, Mr. McDonough.

Q. Did he tell you that? A. If he did, I don't recall it.

Q. Did he tell you he was in mental hospitals?
A. Yes.

Q. Did you check to find out? A. No, the State's Attorney's office checked it later.

Q. Well, it was checked anyway? A. I am sure it was.

Q. As a matter of fact, haven't you used the expression in talking about Culombe that he is a nut and got out of a mental hospital? A. No, sir.

Q. Haven't you referred to Culombe as a nut?
A. No, sir.

Q. Don't you think he is? A. No, sir.

MR. BILL: I object to that.

THE COURT: Well, I will sustain the objection and the answer may go out.

Q. You had it in mind when questioning him there was something wrong with him, didn't you? A. I thought he was a very cunning individual.

MR. BILL: May I have that answer?

(The Reporter read the answer).

Q. You thought he was a very cunning individual, and you still do, don't you? A. I do.

Q. And he might be a cunning individual, that's true, isn't it? A. He might be.

Q. But you do know he is a person who has been treated for mental incompetency and who has escaped from a mental hospital? A. I have been told.

Q. You have been told through official sources?
A. No, sir.

Q. Have you checked the mental hospitals in Massachusetts? A. Through the State's Attorney's office, yes.

Q. As a matter of fact, you followed my trail through them, didn't you? A. Did I? No, sir.

Q. Your men did? A. Not your trail. The men went to Massachusetts.

Q. Right behind me. Well, you did check the mental hospitals in Massachusetts where Culombe had been and where he had escaped from, or your men went?

MR. BILL: I object to that. He didn't know whether he escaped.

THE COURT: I will sustain the objection. It contains facts that are not in evidence.

Q. Having in mind what Mr. Matus of the State's Attorney's office told you, and having in mind anything else that came to you when you were questioning Culombe, you knew you were dealing with a mental patient — cunning, as you say — but still a mental patient? A. No, sir.

Q. Well, from the information you received, didn't you know that? A. I never received that information as a result of this check directly. It went to the State's Attorney's office. I received the request for the check and the officers who made the check reported to Detective Eddie Matus, I believe.

Q. After you found out—after you received the information about his mental condition, did you remark to anyone about his mental condition—did you talk to anyone about Culombe's mental condition?

MR. BILL: Objection unless he specifies to whom he talked and lay a background.

MR. McDONOUGH: I will withdraw the question.

Q. Did you in your conversation with anyone or did you give out a statement saying that Culombe had a psychopathic personality? A. No, I did not.

Q. Do you know what I am referring to when I ask that question? A. I do.

Q. You didn't give out such a statement? A. I did not.

Q. How many hours did you question Culombe?
A. What day?

Q. Total. A. I wouldn't know.

Q. It is so many? A. No.

Q. Well, if it isn't so many, how many? A. I don't know. I couldn't tell you truthfully.

Q. If it is only two or three or four or five hours, you should remember. A. It was over no long periods of time. He received, I assure you, more sleep than I did or the investigators.

Q. You slept when you wanted to? A. So did he.

Q. Did he? A. Yes, sir.

Q. Well, Saturday night what time did he retire? A. He was brought to his cell before midnight.

THE COURT: I don't know as I understand it. May I have the question and answer?

(The Reporter read the question and answer.)

Q. What time did he go to bed Saturday night? A. I assume it was when he was brought to his cell.

Q. I know and appreciate that you worked hard, but so did Culombe work hard, didn't he? A. If you call lying—

Q. Well, whatever you call it, lying or telling the truth —he worked hard? A. I don't know that he worked as hard as I did.

Q. I will go along with you, but you worked him pretty hard, didn't you? A. I didn't work him pretty hard.

Q. What did you do to him? A. Talked with him.

Q. Well, all right, how many hours did you talk to him? A. What day?

Q. Monday. A. The day he was booked?

Q. Yes. A. Probably a total of two or three hours at the most.

Q. We will start off with the hours. It is important to this man. Hours are in the balance for him right now.

You started talking to him at six o'clock Saturday night, didn't you? A. Yes, sir.

Q. How many hours did you talk to him Saturday night?

A. Probably not more than a total of two hours.

Q. What time did you stop talking to him?

A. When he was returned or when he was sent to the jail block-cell block.

Q. Did you talk to him two hours straight through Saturday night? A. No.

Q. You mean you broke it up? A. Well, I would ask him a question and would go over and ask Joe Taborsky a question. I was hopping around that way. There was no sitting down for any long period of time.

Q. And when you were not asking him questions Sergeant Paige was asking him questions, wasn't he?

A. Not necessarily.

Q. Or some of the other officers? A. No, there were no teams working on him.

Q. There were no teams working on him?

A. No, sir.

Q. Wasn't he worked over? A. No, sir.

Q. Wasn't he worked over pretty well before the matter was entirely finished during the investigation?

A. What do you mean by worked over?

Q. All tired out, exhausted, not shaved, not clean, loss of sleep? A. No, sir.

Q. You know what the expression "sorry sight" means. Wasn't he, when you got all through your investigation, the State Police investigation, a sorry sight? A. Yes, sir. May I qualify that?

THE COURT: No, you have answered the question.

Q. Where I was pressing on this question of where you got the permission from the Court when he wasn't represented by a lawyer yet, and he gave in and went on a trip,—he was a sorry sight, wasn't he? A. What trip do you refer to?

Q. I call it the Cook's Tour—you know what a Cook's Tour is.

MR. BILL: I object.

Q. All around Hartford County, after they left Judge Bordon's court. A. He was under a strain from something he had done himself.

Q. Well he was under a strain, was he? A. Yes.

Q. Didn't one of these men say he wanted a chance to wash up and clean up? Didn't one of the men ask the presiding judge that? A. Yes.

Q. He wanted to wash up and clean up? A. He didn't ask me.

Q. It was asked of the presiding judge? A. Yes, and it was granted.

Q. In your presence? A. Yes.

Q. And what day of the week was that? A. That was Thursday, February 28.

Q. And from the preceding Saturday, when they were taken into custody, up until the following Thursday when they appeared in this courtroom, they hadn't been allowed to wash and clean up, and were given permission by the trial judge? A. No, sir.

Q. They were washed and cleaned up before that? A. And before that.

Q. Well, if you only questioned Culombe on Saturday night for two hours and he was brought back to the barracks after the trip at six o'clock, what was he doing between six o'clock and midnight when he was brought to his cell downstairs and went to bed? A. Maybe talking to Sergeant Paige and hanging around and smoking.

Q. He was talking more than two hours, wasn't he? A. I told you I talked to him for two hours.

Q. Did Sergeant Paige spend the other four hours with him questioning him? A. I don't know what they were doing.

Q. They were doing something? A. They were together.

Q. Now, Sunday morning, what time did you first talk to Culombe? A. I don't know.

Q. Now, you made the remark that Culombe is cunning? A. Yes, sir.

Q. I think you have made that remark before to two other people—you have referred to him as cunning? A. He has native cunningness, yes.

Q. And you referred to him as having a remarkable memory? A. I don't recall that Mr. McDonough.

Q. You have found that he has a remarkable memory, haven't you? A. Better than Taborsky's.

Q. I am not talking about Taborsky. A. I have no basis for comparison.

Q. That is one standard - your standard - for measuring memory. Hasn't Culombe a remarkable memory? A. No, sir.

Q. You mean he can't remember - - -

MR. BILL: Objection, Your Honor.

THE COURT: I will sustain the objection.

Q. Culombe can't read or write, can he? A. So he says.

Q. You know that he can't? A. I don't know.

Q. You have checked everything in the course of your investigation. Let us be fair. You know he can't read or write? A. I don't know. He has told me he can't.

Q. Have you ever seen him read anything?
A. No, sir.

Q. Are you sure that he can put his shoes on alone without assistance - on the right foot? Do you know that?
A. I believe he can.

Q. You believe he can. Did you ever see him try to put his shoes on? A. No, sir.

Q. Have you had a report from the hospital about him in your files? A. There may be one, I don't know.

Q. Did Culombe do any crying while being questioned by you? A. No, sir.

Q. Did anyone do any crying while being questioned by you in connection with Culombe? A. No, sir.

Q. How many hours did you talk to Culombe on Sunday? A. I don't know.

Q. Well we would like to know. If you don't know how many hours, how are we to know?

MR. BILL: Objection.

Q. Withdrawn. You know don't you? A. No, sir.

Q. Did you make a record of these discussions with him? A. I just make certain they are treated properly.

Q. And that is your only concern? A. Yes.

Q. And you are the judge of what is proper treatment? A. Yes, sir.

Q. Was he treated properly? A. Yes, sir.

Q. What did you talk to him about Sunday?
A. The New Britain murders.

Q. When did you talk to him about it Sunday?
A. I don't know.

Q. Or is it you don't remember? There is a difference between not knowing and not remembering? A. I don't know.

Q. You don't know. Did he say anything to you about the New Britain murders? A. Yes, sir.

Q. Did you ask him about the New Britain murders?
A. Yes.

Q. If he told you on Sunday he committed a murder in New Britain, would you have remembered it?

MR. BILL: I object, Your Honor.

THE COURT: Will you read it, Mr. MacGlashan?

(The Reporter read the question)

THE COURT: I will sustain the objection.

MR. McDONOUGH: May I have an exception?

THE COURT: Certainly.

Q. How is it you don't remember the Sunday conversation? A. It was insignificant.

Q. It wasn't significant. It was about the lives of two men that had been taken, and it wasn't significant?
A. Well, my conversation with Culombe was insignificant—something I had no reason—the answers to my questions I would have no reason to remember.

Q. You have no reason to remember because they were denials, is that the reason you don't remember?

A. He did deny them.

Q. Therefore, you have no cause to remember them?

A. I would have none.

THE COURT: Mr. McDonough, you won't have anything in the record here if you don't let him finish before starting your next question.

MR. McDONOUGH: I am sorry.

Q. If he had admitted something, that he had shot someone in New Britain, it would have been significant to you to remember, wouldn't it? A. Yes, sir.

Q. But he didn't do that? A. No, and I felt he was lying.

Q. You mean his statements were not satisfactory to you and you did not remember those? A. No, sir.

Q. You only remember the parts containing admissions of guilt? A. No, sir.

Q. Well, then, try and remember, if it is so, did he deny the shootings in New Britain? A. He did.

Q. And when did he deny the shootings?

A. Saturday, Sunday, Monday and Tuesday.

Q. Then you do remember something about Sunday?

A. Yes.

Q. He denied on Sunday that he shot anyone in New Britain? A. Yes, sir.

Q. And on Sunday he denied he had anything to do with the New Britain murders? A. Yes, sir.

Q. And he kept up those denials for how long?

A. With the exception of the slip on Tuesday in the presence of his wife, he kept it up until Wednesday afternoon.

Q. But Sunday he kept it up all day?
A. He wasn't questioned all day Sunday.

Q. I thought you told us a moment ago that on Sunday he denied having anything to do with the New Britain shooting? A. He didn't deny it all day.

Q. But he was questioned on Sunday about the New Britain killing? A. Yes.

Q. And he denied it on Sunday? A. Yes.

Q. And you remember his Sunday denials?
A. Yes.

Q. Let us go to Monday. Was he questioned on Monday about the New Britain murders? A. Yes, sir.

Q. What did he say about the New Britain murders?
A. He denied any knowledge or participation.

Q. Saturday he was questioned, Sunday he was questioned, Monday he was questioned, and he has been denying it all through that time? A. Yes, sir.

Q. Has he been arraigned or presented before any court up to Monday night, even though he has been in custody since Saturday afternoon? A. No.

THE COURT: Let us stop there, Mr. McDonough. Escort the accused from the courtroom.

The alternates may return to their room and the jury to their room.

Short recess, Sheriff.

(Recess at 3:30 P.M.)

JUNE 6th, 1957. 3:50 P.M.

(Accused present.)

THE COURT: May I have the alternates, Sheriff, and the jury?

(Jury and alternates present.)

THE COURT: Before we start, ladies and gentlemen of the jury, I know that due to the manner of the choosing of the jury, very few, if any, of you have had any previous jury experience, and most of the judges, including myself, try very seriously to let the jury go on Friday afternoon as close to four o'clock as we can. I usually like to say that that is more for the benefit of the ladies than the men, but due to the development of American life I think it is as much for the benefit of the men as the ladies. I tell you that now so you can plan on it. I will try to get you out of here at least by four o'clock tomorrow afternoon. Not permanently but just for tomorrow. You may proceed.

SAMUEL ROME, on the witness stand; CROSS EXAMINATION BY MR. McDONOUGH: (RESUMED)

MR. McDONOUGH: May the last question be read, Your Honor?

THE COURT: Will you read it please, Mr. Burke?

(Last question and answer read by reporter.)

Q. He hadn't seen a lawyer, either, had he? Culombe hadn't? A. Until what time?

Q. Up until Monday night Culombe hadn't seen a lawyer, had he? A. No, sir.

Q. He had asked to see a lawyer, hadn't he?
A. Yes, sir.

Q. Didn't you tell him that he could see a lawyer

when you got good and ready to let him see him?
A. No, sir.

Q. Well, when he asked to see a lawyer did he see a lawyer? A. No, sir.

Q. Did you allow him to go to a telephone to call a lawyer? A. There was a telephone right there. He didn't have the name of an attorney to call.

Q. Well, there are a large number of Hartford lawyers' names in the Hartford telephone directory?
A. Yes, sir.

Q. Did you offer him the use of the directory to find out the name of a lawyer to call?
A. We were told that he couldn't read.

Q. Oh, you were told that he couldn't read?
A. Yes, sir.

Q. Who told you that? A. He did.

Q. Well, then, before I asked the question here in the courtroom, you had information that he couldn't read?
A. After I talked with him.

Q. So, therefore, a telephone directory would have been of no use to him? That is what you mean by that answer? A. If what he told me was the truth, yes, sir.

Q. Did you tell him that he could have gotten in touch with Mr. Cosgrove, the Public Defender for this court?
A. I make it my business never to mention any attorneys. It is up to them to mention their attorney.

Q. This man was in the hands of the police on a serious investigation. He said that he wanted a lawyer and you did nothing to help him? A. I told him he could have a lawyer if he told me who he wanted me to call.

Q. Did you tell him that? A. Yes, sir.

Q. Didn't Culombe tell you on Monday night, "If that is the way you operate up here I want to get in touch with a lawyer," and you replied, "We will let you get in touch with one at the right time, not until then."

A. No, sir.

Q. But there was talk about a lawyer? A. Yes, sir.

Q. And Culombe did not get in touch with a lawyer until he asked in this courtroom and the Court appointed a lawyer, that is correct, isn't it? A. That is correct.

Q. Now when was it that Sergeant Paige brought the guns from Culombe's house to State Police Headquarters, what day? A. Saturday, I think.

Q. Everything went fine with Culombe up until a certain point—that is, as far as arguments between yourself and Culombe were concerned, isn't that so?

A. Will you please explain "arguments"?

Q. I will reframe the question, Lieutenant. During the period of between Saturday afternoon and Wednesday there was a time when trouble began to occur between you and Culombe, isn't that so, arguments between you and Culombe? A. No, sir.

Q. Did you call him a God dam liar? A. I may have called him a liar, but I didn't call him a God dam liar.

Q. What did you call him a liar for? A. I felt that he was lying.

Q. So you called him a liar? A. I may have called him a liar.

Q. What causes you to believe that you may have called him a liar? A. It was apparent and obvious to me that he was lying.

Q. And you let him know that it was obvious to you?

A. I wanted to let him know that he wasn't fooling me.

Q. When the guns were being checked, they were checked in a small room, they were placed on a table, weren't they? A. Yes, sir.

Q. Who placed them there? What officer?
A. I am of the opinion that it was Sergeant Paige.

Q. Did you say to him—that is Culombe—when the guns were placed on the table, "What have you such a small arsenal as this for?" A. I don't remember those words, but I may have—

Q. You referred to them as an arsenal and you asked him what he had them for? A. That would be my termilogy, yes, sir.

Q. And did he reply "It is just a collection"?
A. Yes, sir.

Q. And did you say to him, "Would you want to get these back"? A. I may have.

Q. Did he reply to you "I'd love to get them back again after you check them out"?
A. That sounds like normal conversation, yes, sir.

Q. And did you say "Try and get them back if you can"? A. No sir.

Q. But up to that point, that is, to what I asked you, not what you said, the conversation is substantially correct, isn't it? A. I believe so, Mr. McDonough.

Q. About the bandanna handkerchiefs, you asked him about those, didn't you, Lieutenant? A. Yes, sir.

Q. Or Sergeant Paige did in the barracks? A. I also asked him about them.

Q. Did you ask him why they were folded up?
A. Yes. sir.

Q. And made a knot so they could hang in back of the neck? Did you ask him about that, why they were knotted?
A. They weren't knotted.

Q. You asked him about the shape that they were in?
A. Yes, sir.

Q. And did he tell you that he had them that way because he used them when hunting to wipe the barrel of his shotgun off? A. No, sir.

Q. Did he refer to the shotgun that he used for hunting? A. No, sir.

Q. Did you ask Culombe if he used any of those bandannas on a hold-up in Glastonbury? A. Yes, sir.

Q. And did he reply no, that he hadn't been up that way? A. Yes, sir.

Q. Did you call the Glastonbury police to have someone come down to identify Culombe? A. Yes, sir.

Q. And did someone come down? A. Yes, sir.

Q. Did they identify Culombe? A. No, sir.

Q. Did you make this remark, "Well, they're putting me in charge of this investigation and I'm not going to step on anybody. This job doesn't mean that much to me." Do you recall making that remark? A. It sounds like something I might make.

Q. Did you make that remark to the Glastonbury police, to the Chief of Police? A. I don't recall.

Q. When the witness from Glastonbury could not identify Culombe didn't Culombe also deny having anything to do with that incident? A. Yes, sir.

Q. And didn't you say to Culombe "You had better tell the truth about this whole thing. If you don't we will knock it out of you?" A. No, sir.

Q. Didn't you say "We will take you downstairs on the stretcher and will bring you to the Captain's chair in the boiler room and we will work you over"? A. No, sir.

Q. "And you will tell us the truth by the time that we get done with you"? A. No, sir.

Q. Well, by the time that you did finish with Culombe his denials had ceased, hadn't they? A. Yes, sir.

Q. And you did get done with him too, after a while? A. I don't know what you mean by "done".

Q. You got through questioning him. You finished your questioning of him after a while? A. He finally told the truth.

Q. Yes, he gave you what you considered significant, but up until that time you worked on him?

MR. BILL: Objection, Your Honor.

THE COURT: Read the question, Mr. Burke.

(Last question read by reporter.)

MR. BILL: I object to the word "work".

Q. Do you claim it, Mr. McDonough?

MR. McDONOUGH: Yes, Your Honor.

THE COURT: I will sustain the objection.

MR. McDONOUGH: Exception please?

THE COURT: Certainly.

Q. You kept after him, to use very conservative words? A. Yes, sir.

Q. Until you received the answers that you wanted? That's right, isn't it? A. No, sir. Until we received the answers which we proved were correct.

Q. The answers that you wanted were admissions of guilt? You wanted those answers?

A. No, sir, not if he were not guilty.

Q. You were bound and detetmined, weren't you, Lieutenant, to get such answers?

A. No, sir. Not if he were guilty. We wanted answers that we could prove were correct.

Q. You would still be questioning him if you hadn't got those answers, wouldn't you?

MR. BILL: Objection.

THE COURT: Sustained.

MR. McDONOUGH: Exception.

THE COURT: Certainly.

Q. What is the Captain's chair? A. I don't know.

Q. Where is the boiler room? A. It is in the — what we call the lower garage, the east end.

Q. Why did you refer to the boiler room when talking to Culombe? A. I never did.

Q. What did you say to Culombe in the way of inducing him to give him what you considered truthful answers? A. Will you explain that question? I don't understand it.

Q. You know what the word "inducing" means?

A. I do.

Q. Did you say anything to induce him to give you answers that you considered truthful? A. When?

Q. During the course of your questioning of Culombe?

A. No. He lied for several days.

Q. But he finally told you what you considered the

truth? A. He first started to tell what I considered the truth to Sergeant Paige and Detective Robert Murphy.

Q. Before several days were up, Lieutenant, you had found out that you were dealing with a mental incompetent, hadn't you? A. Oh, no.

Q. You had found that out, hadn't you, by that time? A. No, sir, not until he told me, and he didn't tell me until he started to tell the truth.

Q. You certainly found out that he told the truth about that, didn't you? A. I am told—

Q. By reliable sources, reliable to you? A. Yes, sir.

Q. Now, what was the condition of Culombe himself at the time that you began to interrogate him? A. I do not know.

Q. Didn't you inquire? A. I had no cause to inquire.

Q. What time was he awakened in the morning on any of those four or five days to resume the questioning? A. Eight or nine o'clock, for breakfast.

Q. There were guards posted in front of his cell all night, weren't there? A. No, sir, not all the time.

Q. Well, considerable of the time? A great part of the time guards were there? A. After he started to tell the truth.

Q. But not before? A. No, sir.

Q. Now, you say the truth. The truth as you saw it, is what you mean? A. No, sir, the confession.

Q. The confession? And, of course, you didn't threaten him at any time? A. No, sir.

Q. Everything was all sugar and honey between you and him? A. Yes, sir.

Q. Do you call calling him a liar sugar and honey?
A. Those are your words, Mr. McDonough.

Q. No, you said that you called him a liar? A. I did call him a liar, but the sugar and honey are your words.

Q. What? A. The sugar and honey are your words.

Q. Oh, I know they are. There was no sugar and honey to be truthful about this conversation?

A. I couldn't use sugar and honey, not to Arthur Culombe.

Q. It was pretty rough going, wasn't it? A. No, sir.

Q. You called him a liar. That is rather rough to call a man, isn't it? A. I wouldn't call it rough.

Q. You wouldn't call it rough? A. No, sir.

Q. When you question men in police headquarters and they don't give you the answers that you think should be given, do you call them a liar? A. I have on occasions.

Q. Is that customary for you? A. If I have proof and I know they are telling a lie.

Q. If you have the proof why don't you use the proof? Why call a man a liar?

MR. BILL: Objection, Your Honor.

THE COURT: Sustained.

Q. You could prove he is a liar, couldn't you?

MR. BILL: Objection. He is not talking about this man.

MR. McDONOUGH: I am talking about Columbe.

Q. If you could prove he is a liar why go to the extent of calling him a liar? What good would that do?

A. It is one of the ways that I find valuable in helping to prove he is a liar.

Q. One of the effective ways of making a man break to your will? A. No, sir, he didn't break to my will.

Q. Supposing Culombe didn't like being called a liar and struck you in the face? Don't you think that he would be justified?

MR. BILL: Objection.

THE COURT: Sustained.

Q. He wasn't in a position to do that, was he?

MR. BILL: Objection.

THE COURT: Sustained.

Q. When you called Culombe a liar you were in what is called the driver's seat, you were in power over him, weren't you? A. I don't know that I called him a liar. I may have.

Q. You said you did. A. I may have.

Q. Why do you say that you may have? A. I knew that he was not telling the truth. I don't remember any specific time when I called him a liar. I can't recall, Mr. McDonough.

Q. If Culombe said that you called him a liar and a G. D. liar will you deny it? A. Yes, sir.

Q. But you won't deny calling him a liar, will you? A. No, sir.

Q. Don't you swear? A. Oh, yes.

MR. BILL: Objection.

MR. McDONOUGH: Claim it.

MR. BILL: I will withdraw it.

THE COURT: He answered the question. Go ahead.

Q. You swore at Culombe, didn't you? A. I said that I didn't.

Q. You swore at Culombe, too, didn't you? A. No, sir.

Q. Did you swear while you were talking to Culombe? A. I doubt if I did, Mr. McDonough.

Q. Kept your temper? A. I am pretty even tempered, I believe.

Q. Retained your patience? A. Not all of the time.

Q. You were pretty well worn weren't you? A. A little tired.

Q. And you were pretty well relieved when the investigation was over, weren't you? A. Yes, sir.

Q. And so was Culombe, wasn't he? A. He said he was.

Q. He could rest then? A. As he did before.

Q. He used the expression he lived like a King when the investigation was over? A. The same as he did before.

Q. Did you threaten Culombe to charge anyone else connected with him with conspiracy if he didn't make admissions to you? A. No, sir.

Q. Did you discuss conspiracy charges with anyone? A. When?

Q. During the course of the investigation? A. The entire investigation?

Q. Yes. A. Oh, I may have, yes.

Q. Did you discuss conspiracy charges? A. I may have afterward. The investigation was from December 18th to February —

Q. From the time Culombe was taken into custody on February 23rd, during the rest of the week did you discuss conspiracy charges with anyone? A. Perhaps we did with the prosecutor.

Q. Other than with the prosecutor, did you discuss conspiracy charges with Culombe? A. I don't recall.

Q. Did you discuss them with his wife? A. No.

Q. Did you discuss conspiracy charges with anyone in the presence of Mrs. Culombe? A. Conspiracy charges against whom—what kind of case?

Q. Against Mrs. Culombe — conspiracy to commit murder? A. No, sir.

Q. Didn't you tell Mrs. Culombe she could be charged with conspiracy unless she got Culombe to sign a confession. A. No, sir.

Q. What was the purpose of questioning Mrs. Culombe? A. My investigators informed me that she had entertained — or Taborsky had stayed over at her house that night.

Q. Did you inform Mrs. Culombe you had that information? A. Yes.

Q. Did you tell Mrs. Culombe she could be charged with a crime for allowing Taborsky to stay with her husband? A. Not if she were not implicated.

Q. But did you tell her she could be implicated?
A. I don't remember ever telling her, no, sir.

Q. Well, you aren't sure, are you? A. I am sure I

never told Mrs. Culombe I would charge her with conspiracy.

Q. You appear to hesitate, Lieutenant. What did you tell her? A. I did a lot of talking to her. I went there to find out what information she had relative to my investigation.

Q. What did you tell Mrs. Culombe could be done to her? A. Nothing.

Q. You told her she could be arrested? A. I may have said that if she was implicated in these killings she could be charged the same as the others.

Q. You had no information she was implicated in the killings, had you? A. She said she was suspicious of her husband and Taborsky being involved in these killings.

Q. But you had no evidence and you didn't claim to her she was involved in the killings — she herself — did you? A. I had no evidence she was, but she told me—

Q. That she was suspicious? A. Yes, sir, and that she had informed her husband—

Q. Well, now—

THE COURT: Let him finish.

THE WITNESS: And that she informed her husband and actually accused him long before we picked him up.

Q. And then you didn't lead her to believe she could be arrested because she was suspicious and allowed Taborsky to come to the house? A. No, she wasn't connected with any crime.

Q. As a matter of fact, didn't you have that woman terrified with the thought that she was going to be dragged into this?

A. She was not terrified when she came voluntarily to the Police Station with a Policewoman and accused Taborsky and her husband.

Q. We have heard a lot about trips to the Police Station being made voluntarily. Do you want us to believe that Mrs. Culombe came to Police Headquarters voluntarily and entered a room alone with you and subjected herself to questioning?

A. Yes, sir, I think she was as curious and anxious to know the truth concerning Joseph Taborsky and her husband's doings as we were.

Q. Do you want this jury to believe that she didn't come to headquarters—or came because she wasn't carried there? A. Yes, I certainly do.

Q. What was her means of transportation, Connecticut Company bus? A. No,—

Q. Yellow cab? A. No, sir.

Q. Walking? A. No.

Q. It was State Police transportation in custody, wasn't it? A. Not in custody, but State Police transportation I believe it was.

Q. It was State Police Transportation, and then she was brought by a State Policewoman to a room and placed in that room with you, wasn't she? A. She was brought to the State Police barracks so I could talk to her before she talked to her husband.

Q. That wasn't the question. May it be read?

THE COURT: Read the question, Mr. MacGlashan.

(The reporter read the question.)

THE WITNESS: Yes, sir.

Q. And you said just a moment ago she was brought to the State Police headquarters so you could question her — you said that a moment ago? A. I did.

Q. So what is voluntary about that — she was brought — "So I could question her". That is not voluntary duty, is it? A. You could also say she was transported — she was transported from her home for her convenience to the State Police barracks.

Q. That's very nice. But she was brought by a State Police Officer to State Police Headquarters so you could question her. That is your sworn testimony, isn't it?
A. Yes, sir.

Q. And you call that a voluntary trip to headquarters out of curiosity? A. Yes, sir.

MR. BILL: Is that a question?

Q. Yes, it is. And is that what you call a voluntary trip to headquarters? A. It was a voluntary trip to headquarters by Mrs. Culombe, Mr. McDonough.

Q. And this lady that volunteered because she was curious how close to the room where Culombe was being questioned by Sergeant Paige was the room where you were questioning Mrs. Culombe? A. You are using the word "questioning" too loosely. I had talked to her at her home before she came to the barracks.

Q. She was brought? A. She was transported to the barracks willingly. She wanted to talk to her husband herself.

Q. That doesn't answer the question.

MR. McDONOUGH: May the answer go out and may I have the question read?

THE COURT: All the comment may go out and the question may be read, Mr. MacGlashan.

(The reporter read the last question.)

A. I don't know—I don't believe it was on the same floor. Mrs. Culombe was in a room across the hall from our dining room and I think she was having some coffee.

Q. Well, I want definite answers. If you don't know, say so. A. I don't know.

Q. The interrogation room is on the floor where your office is?

A. Every room in the barracks is an interrogation room. The interrogation room we make reference to is on the third floor of the headquarters building.

Q. That is where your office is? A. Yes.

Q. And Captain Schwartz's office? A. Yes.

Q. And the same corridor is opened onto by all these rooms? A. I don't know what you mean by all these rooms.

Q. Captain Schwartz's room, your room and what we call the interrogation room — they open onto the same corridor? A. Yes.

Q. How far from your office is the interrogation room?
A. It is next door.

Q. It is adjoining, and there is a communciation system that is turned on, that can be turned on, so that conversation can be heard from one room to another, isn't that so?
A. Yes, sir.

Q. So if Mrs. Culombe was in the interrogation room being questioned by you and her husband was in Sergeant Paige's office and Mrs. Culombe was crying and the system was on, say deliberately, it could be heard by Culombe?

MR. BILL: Objection, Your Honor.

THE COURT: Well, I don't know that you have established where Sergeant Paige's office is.

MR. McDONOUGH: Sergeant Paige testified they were adjoining.

THE COURT: I will allow the question, but I am not too clear.

MR. McDONOUGH: I will clear it up.

MR. BILL: I think that making the statement she was crying isn't in here.

THE COURT: The question was substantially the same as allowed earlier and was answered.

Q. Where is Sergeant Paige's office with relation to the interrogation room? A. His office and my office adjoin the interrogation room.

Q. And there is a communication system between the office, and if it is turned on, sounds can be heard from one room to another? A. Yes, sir.

Q. Now, what day was Mrs. Culombe first brought to State Police Headquarters by Mrs. Mercer, the State Policewoman? A. I believe it was Tuesday.

Q. What time? A. In the evening.

Q. In the evening? A. Yes, sir.

Q. Sergeant Paige testified he didn't think it was in the evening. Are you sure? A. That is his testimony.

Q. It was evening? A. I am of the opinion it was evening.

Q. And what time? A. I don't know. I went to Culombe's home in the afternoon and she was brought after that to the barracks.

Q. And she was brought to the room to be questioned by you? A. She wasn't brought to the headquarters to be questioned by me—she was transported to a room to wait until we could get Culombe into a position so that she could talk to him. I don't know which room it was.

Q. Lieutenant Rome, you said she was brought to State Police Headquarters to be questioned by you. Do you wish to change that testimony?

MR. BILL: I object to that. It isn't the statement.

THE COURT: My recollection is the same as Mr. McDonough's that the witness did make it. With reference to recollection, I will tell you later in the charge that it doesn't make any difference what our recollections are of the evidence; it is your own recollection that governs, and I am going to allow the question.

(The reporter read the question.)

THE WITNESS: No, sir.

Q. And you questioned her? A. I talked with her.

Q. You questioned her? A. Questioned—the word question isn't proper here. I talked to her.

Q. You questioned her, didn't you?

THE COURT: I don't think that is the answer to the question. I don't think you have any right to make it. I think if the witness is giving an interpretation to the words "questioned" and "talk" that isn't the usual interpretation, you should make it clear, because you are saying "questioned", when he is saying he talked to her. If there is a distinction, I think he should be able to say what he meant, since he has already said that she was brought there or transported there to be talked to or questioned by him. That is what he said. He also said other things.

Now, what do you mean when you said she was transported to the police station to be questioned by you? What did you mean when you said that?

THE WITNESS: I had talked with Mrs. Culombe at her home, and there I questioned her and she volunteered—

THE COURT: Never mind that. When she came to the barracks why did she come?

THE WITNESS: She came to talk to her husband and question him herself about these incidents.

THE COURT: Now go ahead.

Q. She didn't come to be questiond by you?
A. I questioned her at her home, and I was satisfied.

Q. I am not asking you about that. Didn't she come to be questioned by you? A. No.

Q. How is it—Just a few minutes ago you said she did. Did she come to headquarters to be questioned by you? A. No.

Q. You so testified. Do you want to change that?

MR. BILL: I object.

THE COURT: I am going to sustain the objection in order to terminate it.

MR. McDONOUGH: I go along with Your Honor.

Q. How long did you talk with her at headquarters?
A. Probably ten minutes in all.

Q. What did you talk to her about? A. I asked her what she—had her repeat that which she had told me about her suspicions concerning her husband earlier, and asked if she would go along and lay the cards on the table to her husband and see if he wouldn't confess.

Q. And why did you do that? A. Well, it is another way of getting a confession.

Q. What are your other ways besides that?
A. Show them the logic and reasoning of it.

Q. How would you show them the logic of it—how?
A. Show them whatever evidence we might have. We might have a gun.

Q. Suppose you haven't any evidence—how?

MR. BILL: Objection.

THE COURT: Sustained.

MR. McDONOUGH: He is talking about other things.

THE COURT: I know it, and I sustained the objection.

Q. What are the ways of getting a confession? Tell us all of them. A. I couldn't mention them, there are too many.

Q. You know what they are.

MR. BILL: Objection.

THE COURT: Sustained.

MR. McDONOUGH: Claim an exception.

THE COURT: Yes.

Q. What ways do you have of getting a confession?

MR. BILL: Objection.

THE COURT: Sustained.

Q. You use force, don't you? A. I do not.

MR. BILL: I object.

THE COURT: Sustained.

Q. Were you there when Culombe was asked the question why didn't he settle for a smaller rap? A. No, sir.

Q. Are you sure you were not there? A. That question was never asked Culombe in my presence.

Q. Was it suggested that he might settle for something with a lesser penalty? A. No, sir, that would never be asked, because I instruct the men to stay away from anything like that and that we cannot make deals.

Q. I know you can't, but you do try to make deals, don't you, and you tried to make a deal with Culombe here, didn't you? A. No, sir.

Q. You kept him at State Police Headquarters for quite a while? A. What day?

Q. When did you let him out of Headquarters and send him to jail? A. Tuesday.

Q. You kept him at State Police Headquarters sometime after that, didn't you? A. Yes, sir.

Q. Almost a week? A. Yes, sir.

Q. Then he was removed to the jail, wasn't he?
A. Well, I didn't give much thought to "almost a week".

Q. You gave thought to it when this Court appointed a lawyer who insisted that he be transported to the jail?
A. When you told me you wanted Arthur Culombe removed from the State Police Barracks and taken to the jail, your wish was complied with immediately.

Q. That was on a Sunday afternoon? A. Yes, sir.

Q. Up to that time he had been a guest of you gentlemen across the street? A. Yes, sir.

Q. He was happy over there toward the end?
A. He indicated his willingness throughout, and in

this courtroom again before Judge Bordon, his willingness to stay there.

Q. Up until the time he had a lawyer, he hadn't any opportunity to do anything else? A. Right in this courtroom he had an opportunity, yes.

Q. He didn't have a lawyer at that time?
A. He could have made known his wish at that time.

Q. When was he first presented in court?
A. He was presented in New Britain court on a Tuesday.

Q. Tuesday morning? A. Yes, sir.

Q. He was taken from Hartford on Monday afternoon to New Britain police headquarters, wasn't he?
A. Yes, sir.

Q. And he was booked at headquarters for breach of the peace? A. Yes, sir.

Q. And Tuesday morning he was presented in the New Britain Police Court? A. Yes, sir.

Q. And when he was led into the New Britain Police Court—in police court there is a caged affair over in the corner of the courtroom like a thin wire cage? A. Yes.

Q. And he and Taborsky were held in that cage that morning? A. Yes, sir.

Q. And they were surrounded by not only the court officials and police officials, but they were surrounded by an unruly mob in that courtroom, weren't they — pushing up against the pen? A. No, sir.

Q. They were not? A. They were not unruly.

Q. There was a large mob around the pen?
A. There were people in the courtroom.

Q. That mob was so thick the court was not able to see the men that were being arraigned in front of? A. I doubt that.

Q. There was a large crowd surrounding the pen? A. In the courtroom.

Q. Between the judge's bench and the pen where the men were? A. Yes.

Q. They were not taken out of that pen and brought before the bench and put to plea? A. I don't remember.

Q. You know they were never put to plea in the New Britain Police Court to this day, don't you. A. I don't know what their practice is, and I don't remember whether they were brought before the judge's bench or not.

Q. You are not able to tell us what happened? A. I had a lot of things to do that day.

Q. Your job was Taborsky and Culombe that day? A. Yes, sir.

Q. What happened in the courtroom that day as far as they were concerned? A. They were charged with breach of the peace and requested a continuance for a week and it was granted and there was a bond of $25.000.

Q. Who requested it? A. I did.

Q. The Prosecutor didn't? A. Through the Prosecutor.

Q. The Prosecutor made the request? A. Yes.

Q. Were they represented by counsel? A. No, sir.

Q. Before that time Culombe over here had told you he wanted a lawyer - you testified to that? A. I did.

Q. Well, when he was arraigned in that court did you

tell the Prosecutor that the defendant who was then facing the court wanted a lawyer? A. No, sir, because - - -

Q. Never mind because - you didn't tell the Prosecutor, did you? A. No, sir.

Q. Did you inform the Court that you, a police officer who had him in custody, had been told by the man - that defendant - that he wanted a lawyer? A. No, sir.

Q. You did not.

Q. You were present in that Courtroom, as you well proved by your testimony. Did Culombe plead guilty or not guilty to the charge of breach of the peace? A. I would have to look at the record. I'm sorry; I don't know.

Q. You don't remember? A. I really don't know.

Q. Here's a first degree murder, two people dead, men you have had in your custody for days, and you don't remember whether they pleaded guilty or not guilty?
A. That's right.

Q. Did the Court ask them if they wanted a lawyer?
A. No request was made to me for an attorney after Culombe made the initial request. He never repeated it, nor did the Court or anyone else ask him.

Q. That's very fine. I appreciate it. But I asked you the question, did the Court ask Culombe if he wanted a lawyer?

THE COURT: He included that in his answer, some of which wasn't responsive. He said the Court did not.

Q. Did anyone ask Culombe in that Courtroom if he wanted a lawyer? A. I didn't.

Q. No one did? Isn't it a matter of fact, Lieutenant, that you discussed with someone the propriety of that pro-

ceeding in the New Britain Police Court and that you took a chance in engineering it? Isn't that so?

MR. Bill: Objection.

MR. McDONOUGH: Claim it.

THE COURT: I'll sustain it.

Q. Whose suggestion was it that a warrant be issued by the New Britan Police Court, or at whose request was it that Culombe be presented in the New Britain Police Court?

A. My request.

Q. It was yours, wasn't it? A. Yes, sir.

Q. Did you make the statement to anyone that you took a chance in doing that?

MR. BILL: Objection.

MR. McDONOUGH: Claim it.

THE COURT: What is the purpose?

MR. McDONOUGH: The purpose of this is to show, Your Honor, that these men were under constant pressure and duress and force. They were taken into the Police Court, deprived of their rights, all as part of a scheme concocted by this witness.

THE COURT: For that purpose and that purpose only I will admit the question.

MR. BILL: The objection is not laying a foundation by naming the person — If he is going to point out — the person the conversation was directed to.

THE COURT: I don't think he has to do that.

MR. BILL: To point out to this man what he is talking about.

MR. McDONOUGH: This is cross examination, Your Honor.

THE COURT: Wait. You both talk at the same time. Mr. MacGlashan can't follow you and I can't either. I understand that your objection is that he must lay a proper foundation for this question?

MR. BILL: Yes, Your Honor.

THE COURT: And this is cross examination.

MR. BILL: Yes.

THE COURT: And anything that might show interest in this witness I take it would be admissible, if it could be shown. And for that purpose of showing an interest in this witness I will allow the question.

MR. BILL: Exception, Your Honor.

THE COURT: Surely.

MR. McDONOUGH: May it be read?

THE COURT: Read it, Mr. Burke.

Q. (Repeated by reporter): "Did you make the statement to anyone that you took a chance in doing that?"

A. I may have.

Q. And who is that person you made the statement to? A. I don't know. I may have made the statement.

Q. Why is your answer you may have? You know you did make such a statement, don't you?

THE COURT: What is the question, Mr. Burke? (Last question read by reporter.)

THE COURT: Will you answer it?

A. I may have made such a statement. I say I may have, because there was a chance as to whether or not we could get a conviction on breach of the peace.

Q. Yes; and a chance whether or not you were going to get what you wanted in the way of a so-called confession, that might blow up in your face by getting nothing after all you had gone through in the Police Court that you engineered? That's possible? A. I don't know what you mean by "blow up in my face."

Q. Supposing you got no confession and you had to turn these men loose eventually; doesn't that mean that to you? After arraigning them, engineering the deal?

A. That's all part of my job.

Q. Weren't you dictating to the Court officials in New Britain? A. I dictate to no Court Officials.

Q. Didn't you issue a statement thanking the prosecuting attorney for issuing the warrant? Why should you issue such a statement? A. Did I?

Q. Did you? A. No, sir. I talked to the prosecutor and I thanked him—the alternate prosecutor, and I thanked him for his co-operation, coming down to Hartford from New Britain on Sunday night.

Q. Didn't you, in the presence of newspapermen and to the newspapers, express your appreciation to the New Britain prosecutor for arraigning them that morning and asking the Court for a continuance to help you in your investigation? A. I recall no such statement.

Q. You say you did not? A. I would say I did not.

Q. You will say under oath you did not make such a statement? A. I don't recall any such statement to the press. I talked to alternate prosecutor William Mangan and he made a statement to the press.

Q. There was a statement to the press of what you made? You made the statement to the prosecutor and he made it to the press? A. I'm not responsible for what he made.

Q. The purpose of that procedure in the New Britain Police Court and the only purpose was to help you in getting the confession, so-called? A. To help me investigate some serious crimes in the state of Connecticut.

Q. The whole New Britain Police Court proceeding, and the prosecuting attorney — His offices were used by you and the Court was used by you— A. No, sir.

Q. —to help you in your investigation? Not to present a man and try him?

MR. BILL: Objection.

THE COURT: Sustained.

MR. McDONOUGH: Claim it.

THE COURT: No, I'll sustain the objection.

Q. That New Britain Police Court was used by you—

MR. BILL: Objection.

Q. In the course of your investigation, wasn't it?

THE COURT: He's got a right to finish his question. Sustain the objection.

MR. McDONOUGH: May I have an exception?

THE COURT: Certainly.

Q. They never went back to the New Britain Police Court, did they? A. It wasn't necessary.

Q. I didn't ask you whether it was necessary—

THE COURT: Now, wait. It isn't proper for you to admonish the witness. He did not answer your question. Had you made a proper motion to strike it out I would have done it. Proceed.

Q. They did not go back to the New Britain Police Court, did they? A. No, sir.

Q. The Court that was used by you?

MR. BILL: Objection, Your Honor.

THE COURT: Sustained.

MR. McDONOUGH: I claim it.

THE COURT: I don't think you ought to pursue that line.

MR. McDONOUGH: He did say that.

THE COURT: Irrespective; whatever is in the record is in the record.

Q. Then they were brought where after that? After they left that Court that you had been in where were they brought then by you? A. State Police Headquarters.

Q. Questioned some more? A. Yes, sir.

Q. You hadn't gotten your confessions yet, so-called, had you? A. I hadn't finished my investigation.

Q. You hadn't finished your investigation until you got the so-called confession. Then it would have been completed, wouldn't it? A. No, sir. If my investigation proved that they were innocent and the confession was certainly not in order and not necessary.

Q. Was your investigation proceeding toward the end to prove to you that they were innocent or guilty?

A. At all times it is to determine the truth, whether they are guilty or innocent.

Q. You were assigned to do a job, to present Taborsky and Culombe for first degree murder, weren't you, by your superiors? A. Will you read that?

THE COURT: Read it, Mr. Burke.

MR. McDONOUGH: I'll withdraw the question.

THE COURT: All right.

MR. McDONOUGH: It's too complicated, anyway.

Q. You hadn't got your confession and they hadn't got a lawyer up to that point, Tuesday morning?
A. You mean "they"?

Q. Yes, I mean both of them. A. Joseph Taborsky, in the presence of his mother and his sister, said he did not want a lawyer.

Q. But Culombe had said he wanted one? A. That was some days earlier.

Q. He never told you since he didn't want one?
A. He never requested a lawyer.

Q. Saturday night he requested a lawyer, didn't he?
A. Since the first request, there was no other request.

Q. Since the first request? A. That's right.

Q. Which was on a Saturday night? A. I think it was Saturday night.

Q. You had taken him out on these investigations, you had brought him to the Court in a strange city, you had taken him out of Headquarters, back again, questioned him again, and no lawyer at all? A. He talked to his wife. His wife had every opportunity—

THE COURT: Why don't you answer the question?

THE WITNESS: Will you repeat the question?

THE COURT: Read the question, Mr. Burke.

(Last question read by reporter.)

Q. That's the situation, isn't it? A. That's it.

Q. And you knew by that time you were dealing with a mentally incompetent person, didn't you? A. No, sir.

Q. You certainly did by the time, didn't you, Lieutenant, by Tuesday morning in the New Britain Police Court? A. No, sir.

Q. Well, did he look as bad to you then as he looks to you now? Take a look at him. Do you think you are dealing with a competent person? A. I was of the opinion and still am of the opinion I was dealing with a very cunning individual.

Q. Very cunning? What does "cunning" mean to you?
A. Shrewd.

Q. Is cunningness a sign, shrewdness a sign of sanity to you? A. You are asking me whether or not I think he is sane? I couldn't tell you that.

Q. You know insane people, dont' you, that are actually insane, adjudged insane by Courts? You know insane people, don't you? A. I have met in my dealings people who were adjudged by the Courts to be insane.

Q. And you had found them cunning and shrewd, hadn't you? A. Yes, sir.

MR. McDONOUGH: That's all.

THE COURT: Mr. Burke? I know you can't finish, but we might as well use some of the time, unless you prefer not to.

MR. BURKE: I would prefer not to, if Your Honor please.

THE COURT: All right. You may step down, Lieutenant. The accused may be excused from the Courtroom.

(Accused escorted from Courtroom.)

THE COURT: Ladies and gentlemen, I have to give you the usual admonition that you are not to talk with anybody about this case or allow anyone to talk to you about it. You will not read anything about it in the papers, if there is anything, tonight or tomorrow morning, and if there is anything on radio or television you should ignore it. When you report here tomorrow the alternates will report to their room and you will report here. I didn't think I was going to have this opportunity to talk to you and that's why I spoke to you at quarter of four, but tomorrow I'll seriously endeavor to get all of you free by four o'clock, until the following Tuesday. And that's another thing I want to say to you. We will not be sitting Saturday or the following Monday, and when I excuse you tomorrow at whatever time I excuse you it will be until the following Tuesday. You may be excused. You may retire now.

(Court adjourned.)

FRIDAY, JUNE 7, 1957

(10:10 A.M.)

THE COURT: Good morning, gentlemen. Bring up the accused, Sheriff.

(The accused were present in the courtroom.)

THE COURT: All right, Sheriff, bring in the alternates, if you will, and the jury.

(The jury and alternates seated at 10:12 A.M.)

THE COURT: Good morning, ladies and gentlemen. You may proceed whenever you are ready, Mr. Burke.

SAMUEL ROME, previously sworn, recalled.

CROSS EXAMINATION BY MR. BURKE:

Q. Now, Lieutenant Rome, if I understand your testimony as of yesterday, you sent out two teams to pick up Taborsky and Culombe? A. Yes, sir.

Q. And these teams were sent out as I understand it, to bring these men to your office? A. Yes, sir.

Q. And the team, they did do that? A. They did.

Q. And Taborsky was brought into your office at about what time on Saturday? A. Two-twenty-five P.M.

Q. When he arrived at your office what was the first thing you did? A. I wasn't there.

Q. When you got there? A. I was notified. I was in the barracks and I was notified and I went from the barracks to my office and saw him sitting in a chair near my desk.

Q. At that time did he have a package in his hand or with him? A. He did not.

Q. No package whatsoever? A. No, sir.

Q. He didn't have a bag with him? A. No, sir.

Q. Now, what did you do when you first saw him? A. Talked with him.

Q. Did you take anything from him? A. Not permanently. I examined his wallet.

Q. You took his wallet? A. Yes, sir.

Q. And looked into it? A. I did.

Q. And then what else did you do? A. I examined the contents.

Q. And after you examined the wallet and the contents what did you do? A. I asked him whether or not he would accompany the men on a ride to Coventry and any other place they may see fit to take him.

Q. Now, that is what you asked him to do? A. Yes.

Q. What did you do? A. What did I do?

Q. Yes. A. I said that.

Q. Didn't you search his pockets at that time? A. I may have, yes.

Q. What was the purpose of that?

MR. BILL: Objection.

MR. BURKE: I claim it, Your Honor.

THE COURT: I will allow it.

MR. BILL: It was ruled out on my question.

THE COURT: It is a little different now.

MR. BILL: I will withdraw it. I want it in anyway.

THE WITNESS: Knowing his background, I wanted to make certain he had no dangerous weapons.

Q. You didn't see any bag in his hand? A. He had no bag in his hand.

Q. None at all? A. No, sir.

Q. Did he have one on the floor? A. Not in the immediate vicinity, no.

Q. And at the time you took his wallet and searched his pockets did you place him under arrest? A. No, sir.

Q. Now, after you asked or requested him to go on this trip, he went on the trip? A. Yes, sir.

Q. Now, did you tell him that if he went on the trip and no one identified him he would be on his way to Brooklyn that night? A. I don't remember saying that.

Q. Do you recall as he left your office he was carrying a bag - a paper bag, Lieutenant? A. No, sir.

Q. Didn't you ask him about the paper bag?

A. No, sir. If I were careful enough to examine his wallet and person I would have examined the bag.

MR. BURKE: May I have the question read and have the answer stricken?

THE COURT: After the word no, sir is all right. No, sir may stand. Do want the question read?

MR. BURKE: If I may.

(The reporter read the question.)

THE COURT: No, sir is all right.

Q. Didn't you tell or ask him, Lieutenant, what was in the bag and he told you liquor and ginger ale? A. No, sir.

Q. And didn't he ask you if he could take it with him on the trip and you said yes? A. He did not and I did not answer that to his question. That is definitely not so.

Q. And then as far as you are concerned you are certain he had no bag containing liquor when he left your office? A. I saw no bag.

Q. Well, if he had such a bag would you have seen it? A. Not necessarily.

Q. You wouldn't have seen a man carrying a bag that contained a fifth of liquor and a bottle of ginger ale, Lieutenant? A. He wasn't carrying a bag of any kind with anything when I saw him and I saw him seated at my desk.

Q. All right. When he was leaving your office, Lieutenant, did he have anything in his hands? A. Nothing that I could see, no, sir.

Q. Did he have anything in his arms? A. No, sir.

Q. Did he have anything between his feet? A. No, sir.

Q. Did he have anything that appeared to you to be a paper bag about eighteen inches high or something like that? A. Absolutely not.

Q. If he were carrying a bag containing liquor and soda or ginger ale would you have seen the bag Lieutenant? A. I would have seen it and removed it from him, yes, sir.

Q. Then are you certain he had no such liquor or bag in his possession when he left your office? A. In his immediate possession, no.

Q. What do you mean by immediate possession? A. On his person. If he put it in another room or someone else held it for him, I wouldn't know.

Q. There was nobody else with him? A. He was conducted to the barracks by Officers and taken from the State Police barracks by Officers.

Q. Your Officers? A. Yes.

Q. And when he was in your office he had no liquor or bottle containing liquor? A. That is positive.

Q. You didn't tell him he could carry it? A. I saw none and I gave him permission to keep or carry nothing.

There was no liquor on his person when I saw him at anytime.

Q. So that when he left your office then he had no liquor? A. When he left my office he had no liquor.

Q. All right. As he left your office who left with him?
A. I turned him over to Sergeant Paige.

Q. Now, Sergeant Paige left with him? A. I think so.

Q. Did you detail any particular Officers to go with Sergeant Paige on this tour? A. I believe I did.

Q. Who were the Officers you detailed? A. It is my recollection that Officer Moran and Officer Griffin - and Sergeant Paige.

Q. Those three? A. To my recollection.

Q. And Taborsky left your office with Sergeant Paige?
A. Those are the officers that were in that group that left.

Q. Did they all leave together - all four leave together, Lieutenant? A. It is my recollection they did.

Q. So that the three officers came to your office, you turned Taborsky over to them, and they left, - is that how it happened? A. I don't know. It is just my recollection I turned them over to Officer Paige. I may have left the office first.

Q. Give me your best recollection, Lieutenant?
A. My recollection stands that I turned these two men over to Sergeant Paige - the men detailed to assist him.

Q. And these two men were Griffin and Moran?
A. Yes, sir.

Q. And to make this other point clear and I will leave it - when he left your office he had no liquor in his possession? A. He did not.

Q. All right. Now, at what time did he return? A. Six - after six - around six P.M.

Q. Now, during that period of time from two-thirty to six, he was in the custody of the State Police? A. He was accompanied by the State Police.

Q. Well, was that by invitation? A. Yes, sir.

Q. Oral invitation? A. Yes, sir.

Q. And it was an invitation, was it, Lieutenant, that could have been denied by him - by Taborsky? A. Yes, it could be.

Q. And if he had denied it, would you have compelled him to go? A. I don't know what I would have done under the circumstances, Mr. Burke - I had no warrant.

Q. You didn't place him under arrest? A. He wasn't under arrest at that time.

Q. So that at the time you took his wallet and searched his pockets and turned him over to these men for a tour he was still not under arrest? A. That is correct.

Q. And he was not in the custody of the State Police? A. I would say so.

Q. Was he under your control? A. More or less when he was down in the barracks, true.

Q. I don't want to know more or less. Was he under your control or was he not? A. To what extent?

THE COURT: You haven't any right to ask questions.

Read the question, Mr. MacGlashan.

(The reporter read the question.)

THE WITNESS: He was not.

Q. He was not under your control? A. No, sir.

Q. He was then, I take it, a free agent to come and go as he pleased? A. Yes, so indicated by his willingness to cooperate and go along with the Officers and submit to the search, yes, sir.

Q. And the fact that he did submit to these things to you showed he was not under your control? A. Yes, sir.

Q. What other things did he do or not do that indicated that he was not under your control? A. There was no test made to determine whether or not he was under my control.

Q. Did you have him understand that he was under your custody and control in that period of time? A. No, sir.

Q. When you sent your men out to pick him up you intended they should bring him back, didn't you? A. No sir.

Q. You did not intend that? A. They were instructed to invite Mr. Taborsky to my office to be interviewed by me.

Q. What other instructions did you give them about picking up these men besides issuing this invitation?
A. I don't recall.

Q. Did you tell them to go out and invite Mr. Taborsky in to visit with you? A. Definitely.

Q. That is the way you put it? A. Those are pretty much my exact words.

Q. You didn't tell your men to go out and pick those fellows up and bring them in? A. Those words were not used.

Q. Words meaning substantially that? A. No, sir.

Q. And so that I understand you, you just sent these men out to invite Taborsky in for a discussion with you? A. I think it is - that is the story.

Q. After they arrived back were you told about the liquor incident? A. No, sir.

Q. Not at all? A. I heard about it the first time in the courtroom here yesterday.

Q. You hadn't heard of it before? A. No, sir.

Q. You didn't know before that that he had liquor with him? A. No, sir.

Q. In fact, you were certain he didn't have any liquor with him when he left your office? A. I wouldn't put my insistence just to liquor. He had no package with him - I saw no package, no liquor or firearms or anything else.

Q. Did you see any cannons or tanks? A. No, no cannons or tanks.

Q. Just talk about liquor - did you see any liquor? A. No, sir.

Q. Was there any bag or container of liquor? A. No, sir.

Q. And if he had such a bag you would have seen it? A. I would have.

Q Now, as to this control or custody by the State Police, didn't you testify as to that that if he attempted to say, "Don't bother me" and walked out, you answered to that, "I would like to see him"? A. Yes, I did. I wonder what I would have done. That wasn't an implied threat. I don't know what I would have done. I had no warrant for the man.

Q. Wouldn't you have used restraint? A. I don't know what I would have done.

Q. Now, we come back from the tour? A. Yes, sir.

Q. At what time did he come back? A. Around six - after six.

Q. Were you told he was fed on the tour? A. I do not recall at this time.

Q. You took him out to eat just shortly after that, you said? A. I took him out?

Q. Took Taborsky out to eat, you said yesterday, or didn't you, Lieutenant? A. Not shortly after that. I wasn't told that he was fed.

Q. You say that they got back around six-thirty? A. Around six, after six.

Q. And what time did you take Taborsky out to eat again? A. Mr. Burke, I am of the opinion it was Sunday night I took him out to eat and not Saturday night.

Q. Didn't you testify yesterday that it was Saturday night? A. I testified that it was to the best of my recollection. I am of the opinion that it was Sunday night. They don't feed at the barracks Saturday suppers.

Q. Well, now, Lieutenant, didn't you testify yesterday that after they returned on Saturday night you and Mr. Matus took Taborsky out to eat?. A. Yes, sir, I did.

Q. And you said that you took him out about eight-thirty? Didn't you? A. If that was my testimony.

Q. Don't you recall it, Lieutenant? A. You have it before you.

MR. BURKE: May I have the question read and the answer stricken?

THE COURT: Yes, the answer may be stricken and you may have the question read.

(Last question read by reporter)

A. I recall having testified yesterday that I took him out on Saturday night. There is a possibility and I am of the opinion now that it could have been Sunday night.

Q. Do you wish to correct your testimony on that particular point that you gave us yesterday, Lieutenant?
A. No, sir, not until I thoroughly look into it.

Q. Are you uncertain as to what your testimony was -
A. No, I -

THE COURT: Please, Mr. Burke and Lieutenant, it can't be done. Mr. Burke cannot get both statements if you are both talking at the same time, which I know that you know. Do you want to start over or do you want Mr. Burke to read the question?

(Last question read by reporter)

Q. - regarding taking Taborsky out to eat on Saturday night, Lieutenant? A. No, sir.

Q. Well, Lieutenant, did you or did you not take him out to eat about eight-thirty Saturday night?
A. I don't know whether it was Saturday or Sunday night.

Q. Yesterday, Lieutenant, weren't you quite certain that it was Saturday night? A. Yes, sir.

Q. Now, do you wish to change that testimony?
A. No, sir.

Q. WELL, are you certain today, Lieutenant, that it was Saturday night? A. No, sir.

Q. Is there anything that occurred overnight, Lieutenant, that changed your mind as to your certainty of

taking him out or not? A. Not over night, but I talked to Eddie Matus yesterday afternoon.

Q. And he refreshed your recollection? A. He was of the opinion that it was Sunday night.

Q. And did you take his word for that? A. No, I didn't. I told you I won't change the testimony. I'd have to look into it myself.

Q. You didn't attempt to look into it overnight to ascertain what occurred so you could tell us? A. The substance of the testimony is correct. The night, whether Saturday or Sunday, I am not certain.

Q. You are not certain of the details, are you? A. I am certain of the details, I am not certain of the night.

Q. Are you certain of that detail as to the night?
A. No.

Q. Are there any other details in your testimony that you gave us yesterday that you are not certain of, Lieutenant?
A. No, sir.

Q. So that every other detail that you gave us yesterday you are certain of today? A. I haven't recalled. I didn't think over all the testimony. I couldn't possibly. I wouldn't know. At the time I gave it I was certain that I was right and telling the truth.

Q. You wouldn't have any reason to do otherwise, would you, Lieutenant? A. Absolutely not, Mr. Burke.

Q. Now, when they returned from this trip you stated that the officers did not tell you that they had already fed these men? A. I don't recall them having said that they did or didn't feed the men.

Q. Did they make a report to you, Lieutenant?
A. Not on that.

Q. Did they make a report to you of their activities?
A. Yes, sir.

Q. Did Sergeant Paige tell you about the liquor incident? A. No, sir.

Q. Did Officer Griffin tell you that he threw the liquor bottle into the rubbish at the Wethersfield Diner?
A. No, sir.

Q. Did he ever tell it to you? A. Yes, sir.

Q. When? A. I asked him about it yesterday in court after I first heard it.

Q. Prior to that you never knew anything about the liquor? A. It came as a surprise to me as I sat in the courtroom.

Q. Is it a usual thing for the state police to feed liquor to people that they have under investigation?

MR. BILL: Objection, Your Honor. There is no evidence that the State Police fed this liquor to those men.

THE COURT: Are you objecting?

MR BILL: I am objecting strenuously.

MR. BURKE: I claim it on this basis. This witness says he had nothing in his hands when they left the office. The testimony is that they had the liquor in the car. Certainly the inference is that they got it from somewhere, and all of that time they were in the custody of State Police officers and I believe that this is fair cross-examination to find out whether or not this was actually the case, and I claim it in this case.

THE COURT: I don't agree with you on that. I think that you are entitled to go into the matter that you indicated, but it is immaterial in this case whether it was customary or not customary. I sustain the objection.

MR. BURKE: May I have an exception, Your Honor?

THE COURT: You may.

Q. After they did return from the tour, Lieutenant, they came again to your office - Taborsky, at any rate? A. Yes, sir.

Q. And were you in your office at that time? A. I don't recall where I was.

Q. Don't you recall any details of that night, Lieutenant? A. I do.

Q. When they came back from the tour when did you first see Taborsky? A. After he came back.

Q. What time? A. After six p.m. around six p.m.

Q. About six p.m.? A. Around that time.

Q. What do you mean, around that time? Five-thirty or six-thirty? What time, Lieutenant? A. I don't know.

Q. What time did they go out on the trip? A. Between three and four, I would say.

Q. And how long were they gone? A. A couple of hours.

Q. A couple of hours? A. Yes, sir.

Q. They came back, you say, after six o'clock? A. That is my recollection.

Q. Now, after they came back when did you first see Joseph Taborsky? A. I do not recall.

Q. Do you recall the time? A. It was between then and the time we put them to bed, before midnight.

Q. So it was any time between six and twelve o'clock? A. Yes, sir.

Q. Is that your best recollection, Lieutenant? A. Right now it is.

Q. Didn't you testify yesterday the reason that you took him out with Mr. Matus to eat, and you did it at eight or nine o'clock at night? A. If I took him out Saturday night.

Q. Did you see him, then, before eight o'clock at night? A. I feel reasonably sure I did, Mr. Burke, but -

Q. At what time did you see him, Lieutenant?
A. When?

MR. BURKE: May I have the question read, Your Honor?

THE COURT: Yes. You mustn't ask him any questions, Lieutenant. He hasn't any right to answer and you haven't any right to ask him a question and put him in that position. Will you read the question, Mr. Burke?

(Last question read by reporter)

A. I do not know.

Q. When you did see him, Lieutenant, where did you see him?

MR. BILL: Objection. I don't think that the witness knows and I certainly don't know what date we are talking about.

MR. BURKE: We are talking about Saturday, Your Honor.

MR. BILL: Thank you.

MR. BURKE: The previous question said when he returned from the trip.

MR. BILL: I will withdraw the objection if he has cleared it up.

THE COURT: All right.

Q. Do you recall the question? A. I recall the question.

THE COURT: The question is, where did he see him?

A. It would have been at State Police Headquarters.

Q. Where in the State Police Headquarters? A. I don't know.

Q. How many rooms have you got over the ?
A. Many.

Q. You don't know which of the many rooms that you saw him in? A. No, sir.

Q. Did you see him in the boiler room? A. I would not have seen him in the boiler room. I didn't see him in the boiler room.

Q. Did you see him in the Commissioner's office?
A. No, sir.

Q. Did you see him in your own office? A. That is more likely.

Q. Didn't you testify yesterday that he was brought back to your office and that is where you saw him?
A. I just said it is most likely that is where I saw him.

Q. Can't you tell us, Lieutenant, or can you not?
A. I cannot.

Q. You cannot? You don't know what time you saw him? You don't know where you saw him? A. No, sir.

Q. Wherever you saw him and whatever time you saw him, Lieutenant, did you talk to him? A. Yes, sir.

Q. Can you recall what you talked about?
A. Murder.

Q. Murder? At what time did you begin talking to him about murder? A. About 2:25 p.m. that afternoon.

Q. Now, Lieutenant, after the trip, and they have

returned to your office at about six o'clock and you have seen him at sometime, somewhere between six and midnight, you talked to him again? A. Yes, sir.

Q. What did you talk about? A. Murder.

Q. Murder? How long did you talk with him about murder? A. On and off until just before midnight.

Q. Anyway, then you talked to him about murder for about five or six hours? A. No, sir.

Q. How many hours did you talk to him about murder? A. I devoted my time between the men, Culombe and Taborsky, from the time he was returned to headquarters until the time that they were locked up in the cells at the barracks at night.

MR. BURKE: May I have the question read, Your Honor, and the answer stricken as not responsive.

THE COURT: Read the question, please, Mr. Burke.

(Last question read by reporter)

THE COURT: The answer may go out. Answer the question if you can, Lieutenant.

A. I do not know.

Q. Did you talk to him one hour? A. I do not know.

Q. Two hours? A. I do not know.

Q. Three hours? A. I do not know.

Q. Four hours? A. I do not know.

Q. Five hours? A. I do not know.

Q. I understand that you do not know how long you talked to him, Lieutenant? A. That's what I said.

Q. Now, after you finished talking to him or while you were talking to him what threats, if any did you make to him? A. I made no threats to him.

Q. You are certain of that? A. I am positive of that.

Q. Is it not a fact, Lieutenant, that while you talked to him on Saturday night that you told him that you wished there was not a law that would prevent you from working him over good? A. I did not.

Q. Did you not make that statement in the restaurant? A. I did not.

Q. You recall that detail very clearly, do you not? A. I recall the restaurant detail very clearly.

Q. Did you at any time that day, Saturday, February 23rd, afternoon or evening, anywhere, any place make the statement to him that you wished that you could work him over good and you would get the answer? A. I did not.

Q. You are certain of that? A. I am positive.

Q. Now, you say that you locked him up at midnight? A. I had him locked up about midnight, yes, sir.

Q. And who locked him up at midnight? A. It is my recollection that Sergeant Paige did.

Q. Sergeant Paige locked him up? A. That is my recollection.

Q. Where did he lock him up? A. State Police cell block, Washington Street.

Q. And was Culombe locked up at the same place? A. Yes, sir.

Q. Now, where in relation to Culombe was Taborsky locked up? A. In the basement of the barracks there is

a cell block consisting of three cells. There are two bunks in each cell, and Taborsky was locked in one end, Culombe in the other, with an empty cell in between.

Q. Was there a guard placed over them? A. No, sir.

Q. This cellblock, as I understand it is downstairs in the barracks, isn't it? A. In the basement of the barracks.

Q. In the basement of the barracks? There was nobody there all night with the men who were in the cells? A. Not the first few days.

Q. I am talking about Saturday night, Lieutenant, February 23rd, 19 and 57. On that particular Saturday night when you ordered Sergeant Paige to look them up no guard was placed, is that correct? A. That is my recollection. There was no guard posted.

Q. So that all night long these men were in the basement unattended? A. Yes, sir.

Q. Now, what kind of hearing devices do you have those cells equipped with, Lieutenant? A. The best.

Q. So that anything that is said by anyone in those cells is recorded or listened in to by you people? A. It can be. We can listen in, yes, sir.

Q. And on that particular night the machine was going, wasn't it? A. No machine.

Q. The equipment, the device, the hearing device? A. Yes, sir.

Q. And did you record anything, Lieutenant? A. No, sir.

Q. Now, if a fire had occurred these men would have been downstairs in this basement unattended, unable to get out of the cell? A. No, sir. There are men in

attendance twenty-four hours a day at the barracks and they supervise the entire barracks.

Q. They are upstairs, aren't they? A. Yes, sir.

Q. And the cellblock is downstairs, isn't it?
A. Yes, sir.

Q. Now, Lieutenant, let me ask you this: you are pretty familiar with the furnishing of those cells?
A. Yes, sir.

Q. Let's take Taborsky's cell. That is equipped with a cot? A. With a metal bunk which is supported by chains.

Q. It comes out from the wall? A. It is attached to the wall.

Q. Does it have a mattress, Lieutenant? A. No, sir.

Q. Does it have a blanket? A. Yes, sir.

Q. How many blankets? A. As many as the inmate wishes.

Q. In that particular cell there was one blanket, wasn't there? A. I don't know.

Q. Did you find out what the cell was equipped with, Lieutenant? A. I don't recall having brought him to the cell. I may have checked the next morning.

Q. When you checked the next morning did you notice how many blankets he had? A. No, sir.

Q. Did you notice that he had slept in his clothes all night? A. That would be the thing that he would do there, yes, sir.

Q. Did you notice whether or not, when you checked him the next morning, that Taborsky had slept in his

clothes that night? A. I would have no way of knowing whether or not he removed his clothes during the night. He could have slept in his clothes that night.

Q. Did he tell you that he had to sleep with his clothes on, because it was so cold that he couldn't sleep without them? A. No, sir.

Q. You don't recall that detail? A. He didn't say that to me.

Q. He didn't say that to you? A. No, sir. We have plenty of blankets available for inmates.

Q. If he had said that to you you would have recalled it? A. I would have furnished him more blankets.

Q. You wouldn't just refuse to give him a blanket to keep him uncomfortable, would you, Lieutenant?

A. No, sir, Mr. Burke, I would not.

MR. BILL: Objection - all right, he answered.

THE COURT: I will allow it.

Q. What time in the morning did you take him out of that cell? A. I don't think that I removed him, but it would be between nine and ten.

THE COURT: Between nine and ten?

THE WITNESS: Yes, that being Sunday morning, there is no breakfast in the barracks and I would have eaten out myself and come back in later and we didn't want to interview the prisoners until after we got there.

Q. So that it was between nine and ten o'clock you say you had got there? A. That is my guess.

Q. Now, what else is in this cell - is there a washbasin? A. Yes, sir.

Q. And what kind of faucet does it have? A. A tap and faucet with a spigot.

Q. It is a type of faucet that you push the faucet and the water runs and when you take your hand off the water stops? A. Yes.

Q. In that particular basin in the cell where you had Taborsky it had no towels, did it? A. It did.

Q. It had towels? A. Yes, sir.

Q. Did you check it? A. No, sir.

Q. How do you know it had towels if you didn't check it? A. Everytime I have been there —

MR. BURKE: May I have the question read?

THE COURT: Yes, the answer may go out. Read the question, Mr. MacGlashan.

(The reporter read the question.)

A. That is the custom.

Q. The custom is give them towels, right? A. No.

Q. The custom is not to give the towels? A. No.

Q. Now, you have got me confused. The custom is to give them and not to give them. Which is it? A. The janitor furnishes fresh blankets for each new inmate, towels, toilet tissue, he cleans the cellblock with Lysol and disinfects it. That is the custom.

Q. Let us get back to this particular cell. You know, do you not, that no towels whatsoever were furnished that cell for Taborsky? A. I do not.

Q. Did you check to find out? A. No.

Q. Did you know that there was no stopper in that sink so that you had to hold on to the water faucet?
A. Yes, I do know that.

Q. So that when you are speaking of that faucet,

the waters runs and you let your hand go and the water stops, doesn't it? A. Yes, sir.

Q. So that the sink won't hold any water without the stopper? A. No, sir.

Q. How did you expect him to wash himself, Lieutenant? A. By keeping the faucet depressed with one hand while he washed himself with the other.

Q. He had to use one hand to press the faucet and wash himself with the other? A. Yes, sir. He never complained to me.

MR. BURKE: May that last part of the answer go out?

THE COURT: It may go out.

MR. BURKE: And may the witness be cautioned only to answer my questions?

THE WITNESS: I am sorry.

THE COURT: He says he is sorry and the caution is applied to confine your answers to the questions asked.

Q. Now, Lieutenant, he had to wash himself with one hand in a basin that wouldn't hold water, so that he had to hold the faucet with one hand and wash with the other hand, that is true, isn't it? A. Yes.

Q. And you don't know whether or not he had any towels, do you, of your own knowledge? A. No, sir.

Q. Now, let us get to the soap. Do you know whether or not there was any soap in that cell? A. Of my own knowledge, no, sir.

Q. Isn't it a fact, Lieutenant, that Taborsky complained to you bitterly day after day that he couldn't clean up? A. No, sir, it is not a fact.

THE COURT: Wait a minute. When he is trying to answer a question let him finish.

THE WITNESS: No, sir, it is not a fact. Mr. Taborsky never complained about the facilities in that cell block at anytime to me.

Q. Isn't it a fact, Lieutenant, he brought his complaint into this Court and told the Judge that he wasn't permitted to wash up - is that not a fact? A. He made a complaint about washing in this courtroom. Now, whether or not it was about here or the County Jail, I don't know.

Q. You were present here? A. I was present.

Q. And you were present when he asked Judge Bordon to order you fellows to permit him to wash? A. Yes, sir.

Q. And after that you did, didn't you? A. He received the same as before, yes, sir.

MR. BURKE: May the answer go out as to the first part?

THE COURT: I think so. Will you read the question Mr. MacGlashan?

(The reporter read the question.)

THE COURT: "He received the same as before" may go out and the rest may stand - "Yes, sir."

Q. For how many days, to your knowledge, was Taborsky unable to wash himself? A. Not one day to my knowledge.

Q. He could have washed himself with the one hand procedure which you spoke of? A. Yes, sir.

Q. Now, Lieutenant, did you place Taborsky under arrest on Saturday afternoon, February 23, 1957? A. No, sir.

Q. Did you place him under arrest at a subsequent hour on the same day? A. Yes, sir.

Q. Let me ask you this. Did you question him for an hour at a time.

MR. BILL: I object to it. It is repetitious. We went all over it.

THE COURT: I think that might be, but I would not sustain it on that ground, but I think the witness may be in some difficulty as to what particular time you are talking about when you asked this last question. Will you read it, Mr. MacGlashan?

(The reporter read the question.)

THE COURT: I suppose you mean that night?

MR. BURKE: That night, yes, Your Honor.

THE COURT: Would you answer it.

A. I don't know.

Q. You said you were going from man to man - Taborsky to Culombe? A. Yes, sir.

Q. In your questioning on that evening of February 27, 1957 after they had returned from the tour? A. Yes, sir, that is correct.

MR. BILL: The 27th?

MR. BURKE: the 23rd, 1957.

THE COURT: You don't mean that. Will you read the question, Mr. MacGlashan?

(The reporter read the question.)

THE COURT: And it is the 27th and not the 23rd?

MR. BURKE: I mean the 23rd, 1957 - Saturday night.

THE COURT: The question doesn't read that way.

MR. BURKE: I will straighten it out again.

Q. On that Saturday night, February 23, 1957, the two men involved, Taborsky and Culombe? A. Yes, sir.

Q. At the State Police barracks - had returned from a tour with a detail of Officers which you had sent them out on - you are back at the barracks. You stated, Lieutenant, you had examined them or questioned them, first one man and then another man? A. Yes, sir.

Q. You divided your time, is that correct? A. Yes, sir, and also directed Officers in the further investigation.

Q. I want to direct your attention just to the hours of closing, not the administrative details of your office. When you questioned these men did you do it a half an hour at a time, one, a half an hour on the other, five minutes one, five minutes the other? What time periods did you use? A. I make no time periods, Mr. Burke. If I get a bit of information from him in five minutes I would leave him, go out to the officers, direct them to check on it and then come back. I may stay with him an hour.

Q. So what do you feel is your best recollection about the total time over which you questioned Taborsky on Saturday night, February 23rd, 19 and 57? A. Two hours.

Q. Two hours? A. Yes. That's a guess.

Q. Is that your best recollection, Lieutenant?

A. That's my best recollection. I think that it is a good one.

Q. I didn't hear the last. A. I think that is a good one. It is a strong recollection in my mind.

Q. That the total time that you questioned him on Saturday night was two hours? A. Would be about two hours, yes, sir.

Q. Two hours? All right. Then from six o'clock at night until eleven o'clock at night you spent two hours in questioning Taborsky? A. Yes, sir.

Q. At what time? A. About ten o'clock.

Q. Ten o'clock in the evening? A. Yes, sir.

Q. And what did you charge him with? A. Suspicion of a felony.

Q. And is that under Section 195(d) of the 1955 Supplement? A. I don't think I know the Section.

Q. Now, after you placed him under arrest for the suspicion of having committed or about to commit a felony - which was it? A. Both.

Q. That he was about to commit a felony - and you had grounds to believe he had committed one? A. Yes, sir.

Q. All right. After you had placed him under arrest under this Section of the Statute you had him locked up? A. Yes, sir.

Q. You kept him locked up Saturday night and Sunday? A. Not continuously.

Q. You let him go home, Lieutenant, did you - did you let him go home, Lieutenant? A. No, sir

Q. You kept him under your control and custody at the Police barracks? A. In my custody at the Police barracks, yes, sir.

Q. And when he wasn't locked up in that little cell over there he was in your office being questioned by you? A. No, sir.

Q. Well, where was he? A. Probably being questioned by someone else.

Q. But he was being questioned? A. Or eating or attending to his toilet.

Q. Attending to his toilet? A. Yes, sir.

Q. Without soap, towels or water. What I want to know -

MR. BILL: I move that be stricken.

THE COURT: It may go out. That isn't the evidence at the moment and the jury may disregard it.

Q. When you took him out of the cell on Sunday morning and during Sunday he was contained or restrained at the barracks at the State Police Office? A. Yes.

Q. He was under arrest? A. He was.

Q. For a serious offense - the commission of a felony business? A. Yes, sir.

Q. Now, on Monday morning did you take him anywhere to present him to a proper authority? A. No, sir.

Q. When you did take him somewhere to be presented to an authority you took him to New Britain to the Police Department, did you not? A. Yes, sir.

Q. And you had him arrested again, didn't you?
A. Yes, sir.

Q. You arrested him on Monday? A. I did.

Q. You did. So you had an arrest Saturday night and had one again Monday afternoon, did you not?
A. Yes, sir.

Q. Now, let me ask you, Lieutenant, when did you present Taborsky to any proper authority on the arrest which you made Saturday night? A. Tuesday morning.

Q. Tuesday morning. Tuesday morning you presented him to the Police Court of New Britain? A. Yes, sir.

Q. On a charge of the breach of the peace? A. Yes, sir.

Q. On an arrest made by you Monday afternoon?
A. Yes, sir.

Q. I am asking you, Lieutenant, when you presented him to a proper authority on the charge which you arrested him on Saturday night - suspicion of having committed or believed to be about to commit a felony? A. Tuesday morning.

Q. What felony did you have him presented for? A. He wasn't presented. After a discussion with the prosecutor, the holding charge was dropped and a suspicion charge was made against both.

Q. Well, you were in the Police Department were you not on Monday? A. Yes, sir.

Q. Monday afternoon, I think you testified? A. Yes, sir.

Q. Didn't you or did you not, with reasonable promptness, present this man after having arrested him on Saturday night before a proper authority? A. Yes, sir.

Q. You presented him on Tuesday morning? A. Yes, sir.

Q. And did you on Tuesday morning discuss with the prosecutor of the New Britain Police Court a felony charge? A. Yes, sir.

Q. And he refused to issue a warrant or order? A. He issued a warrant.

Q. On a felony? A. Breach of the peace.

Q. Breach of the peace is a misdemeanor, isn't it? A. Yes, sir.

Q. And that isn't the charge you arrested him for Saturday night, is it? A. No, sir.

Q. And you never did present him before any proper authority within a reasonable time after the arrest Saturday night, did you? A. He was brought to the Police Court Tuesday morning.

Q. Couldn't you have presented him to the Police in New Britain on Sunday? A. Yes, sir.

Q. You could have presented him to the Police Department in New Britain on Monday morning? A. Yes, sir.

Q. You could have presented him to the Court in New Britain on Monday morning? A. We were late for that, no, sir.

Q. So you delayed presenting him until Tuesday? A. Yes, sir.

Q. And when you did present him you never presented him on the original arrest which you made Saturday night, did you? A. He wasn't charged with that, no, sir.

Q. You arrested him under Section 195(d)? A. I said suspicion of a felony.

Q. You did not present him to any proper authority until the following Tuesday? A. That is right.

Q. You had an opportunity on Sunday and Monday to do it, didn't you? A. There was no Court on Sunday.

Q. You have a Police Department, don't you - in New Britain? A. Yes, sir.

Q. You could have presented him on Monday, couldn't you? A. Yes, sir.

Q. And you didn't do that? A. No, sir.

Q. Why didn't you do it? A. Will you repeat that question, please?

THE COURT: Read it, Mr. MacGlashan. I suppose he wants the previous question.

(The reporter read the two previous questions and answer.)

THE WITNESS: It wasn't in accordance with good investigation.

Q. But it was in accordance with the Statute, wasn't it? A. Yes, sir.

Q. With reasonable promptness to bring him before a proper authority? A. Reasonable promptness - Tuesday morning, yes.

Q. You know that Statute, or did, didn't you?
A. I am aware of it.

Q. And you know when a citizen is arrested and locked up by the State Police he is entitled to be brought before a proper authority within a reasonable time?
A. Yes.

Q. And with reasonable promptness? A. Yes, sir.

Q. And that if the Police Department was open on Sunday and the Court was open on Monday you could have brought him in there, couldn't you? A. No, sir, that isn't the proper authority. The Statute refers to the Police Department.

Q. Was the New Britain Police Department open Monday morning? A. Yes, sir.

Q. You didn't bring him before the Court on Monday? A. No, sir.

Q. And with reasonable promptness, you could have, couldn't you? A. Yes, sir.

Q. But you wanted to hold him and do some more grilling, didn't you?

MR. BILL: Objection to the grilling.

THE COURT: I will sustain it.

Q. You wanted to interrogate him some more, didn't you? A. Yes, Mr. Burke.

Q. And that is why you didn't bring him before the proper authority - you wanted some more time? A. Yes, Mr. Burke.

Q. Why didn't you obey the Statute, Mr. Rome?
A. I did —

MR. BILL: I object.

THE COURT: I will sustain the objection and the answer may go out.

Q. Let us go back to Saturday night. You were questioning him, you say? A. Yes, sir.

Q. When he returned from the tour. He returned about six o'clock? A. There abouts.

Q. And will you give your best recollection of what hour he returned? A. Between six and seven.

Q. Did you question him then immediately?
A. This is Mr. Taborsky you are talking about?

THE COURT: He can't answer you. It is about Taborsky that you took over. That is what we have been talking about for half an hour.

THE WITNESS: I don't know.

Q. You don't know. Well, will you give me your best recollection when you began to question him?
A. That evening.

Q. That evening, and then when you started to question him did you continue your questioning for a period of time? A. A short period of time.

Q. Sir? A. A short period of time.

Q. How long in your best recollection? A. I don't recall. I divided my time between the men, Culombe and Taborsky.

Q. How many hours did you spend in questioning Culombe? A. Perhaps a little less than that.

Q. Would you say an hour and a half, Lieutenant? A. That would be a good guess.

Q. Well, I want your best recollection. A. I am trying to give you my best recollection, Mr. Burke.

Q. May I have it, then? A. An hour and a half.

Q. An hour and a half you believe? A. Yes, sir.

Q. Now, between six and twelve Taborsky was locked up, you spent two hours questioning him? A. I don't understand the question.

THE COURT: Read it Mr. MacGlashan.

(Last question read by reporter)

THE COURT: You still don't understand it?

THE WITNESS: No, sir.

Q. Let me see if I can get it over. On Saturday night you told me that you spent in the entire evening of Saturday a maximum time in questioning Taborsky of two hours, correct? A. Yes, sir.

Q. That time you spent between six o'clock and twelve o'clock, correct? A. Yes, sir.

Q. What was he doing during the other three hours? A. Lying.

Q. Lying? A. Yes, sir.

Q. He was sitting there by himself lying, Lieutenant? A. No, others had talked to him too, Mr. Burke.

Q. I just want to ask you, Lieutenant -

MR. BURKE: First, Your Honor, may that answer be stricken? And the question read again?

THE COURT: Yes, I don't think that it was responsive. I'll strike it out. Read the question, Mr. Burke.

Q. (Repeated by reporter) "He was sitting there by himself lying, Lieutenant?" A. No, sir.

MR. BURKE: May I have the question, Your Honor

THE COURT: Do you want it read again?

MR. BURKE: No, Your Honor.

THE COURT: All right.

Q. So that for two hours you were questioning him and for three hours what was he doing, again? Let's have that. A. I don't know.

Q. You don't know? Was he subject to questioning by other officers during that time? A. Yes, sir.

Q. You do know then, don't you, Lieutenant what he was doing? A. I don't know whether or not he was. He was subject to that, Mr. Burke, but whether they were in fact questioning him I don't know.

Q. Weren't you in charge of the investigation?
A. Yes, sir.

Q. Didn't you know what men you detailed to watch him and question him? A. A man can be detailed to just sit with him and just plain sit with him.

Q. Did you detail any men, when you weren't with him, to just plain sit with him? A. Yes, sir.

Q. Did you detail any other men to just plain sit and question him? A. Yes, sir.

Q. Now, who did you detail to just plain sit with him?
A. During the entire course of the investigation -

MR. BURKE: May I have the question re-read, Your Honor, and the answer stricken?

THE COURT: Yes, the answer may go out. Read the question, Mr. Burke.

(Last question read by reporter)

THE COURT: Answer it if you can, Lieutenant.

A. I don't know.

Q. Who did you detail to just plain sit and question him, Lieutenant, on Saturday night, February 23rd, 19 and 57? A. I don't know.

Q. You don't know? Do you know how long this person that you detailed to question him did spend in questioning him? A. No, sir.

Q. Do you have any kind of recollection as to how much time he might have spent questioning him? A. No, sir.

Q. Now, on Sunday you say you got to the barracks about nine or ten o'clock? A. That is my recollection.

Q. And did you immediately go to see Taborsky?

A. I am not certain, but I feel pretty sure that is what I would do and I did.

THE COURT: Read it, Mr. Burke.

(Last answer read by reporter)

Q. You did? And did you talk to him while he was in the cell? A. I don't recall.

Q. At what time did you have him taken from the cell? A. The exact time I don't know, but it was in that morning.

Q. Was it before noon, Lieutenant? A. I don't recall.

Q. What time did you have him fed on Sunday morning, Lieutenant? A. I don't recall.

Q. Did you have him fed at all, Lieutenant?
A. The orders were left by me to have him fed, yes, sir.

Q. Was he fed, Lieutenant? A. To the best of my knowledge he was.

Q. At what time? A. I don't know.

Q. Well, when did you first start questioning him on Sunday? A. I have no way of knowing, Mr. Burke.

Q. Well, was it Sunday afternoon or Sunday morning?
A. Probably Sunday morning.

Q. About what time, Lieutenant? A. I don't know. I said probably Sunday morning. I wouldn't know the time.

Q. Didn't you keep any log of your activities, Lieutenant? A. No, sir, not of this type activity.

Q. You don't keep any such log? A. No, sir.

Q. So your superiors don't know what you are doing as these things develop? A. Yes, sir, they do.

Q. Do they do that because you have a log?
A. They know that because they take my word, and I tell them.

Q. But you don't keep any kind of log of your activities as to what you have done in any particular case? In this particular case I am concerned with? A. No, sir, something like that would not be recorded in any log.

Q. Well, do you feel, or do you recollect questioning him on Sunday morning? A. I feel I did.

Q. And what time do you figure that you did?
A. In the morning.

Q. Well, give me your best recollection as to the

hour. A. Between the time that I arrived at the barracks, and noon.

Q. And noon? All right, and where did you question him? A. I have no recollection, Mr. Burke. I would say that it was up in my office.

Q. And would you have removed him from the cell then? A. Yes, sir.

Q. And did you remove him personally from the cell? A. If I took him up to my office I removed him from the cell.

Q. And when you took him out of the cell you noticed, of course, that he was unwashed, didn't you, Lieutenant? A. No, sir.

Q. You wouldn't pay any particular attention to that, would you? A. Not unless it was brought to my attention.

Q. But you wouldn't notice it just looking, would you, Lieutenant? A. May I answer this way, Mr. Burke. The man hadn't shaved over night and he would look a little different than you or I after we shaved.

Q. He would look dirty, wouldn't he? A. Unshaven is the word.

Q. All right, you took him upstairs to your office sometime on Sunday morning before noon, between nine and ten and noon. You commenced your questioning again, didn't you? A. Yes, sir.

Q. How long did you continue it? A. There again I had no log, Mr. Burke. I don't know.

Q. No idea at all? Was it ten hours? A. No, sir.

Q. Five hours? A. No, sir.

Q. Two hours? A. Could be.

Q. Well, you think that it could be two hours, not more than two hours, Lieutenant? A. I would doubt that, Mr. Burke.

Q. Pardon? A. I would doubt that.

Q. Give me your best recollection, Lieutenant?

A. I have no recollection. This is all - I don't have a definite recollection of having brought him up and interrogated him. I believe that I did but I can't truly recall bringing him up there and interrogating him.

Q. Didn't you testify yesterday, Lieutenant, that you questioned him all day Sunday, both these men? A. I don't believe that I did.

Q. You don't believe you did? But now, this morning, you have no recollection of having questioned him on Sunday, February 24th? A. I am sure that I questioned him but I don't have a definite recollection of actually talking to him Sunday morning, no, sir.

Q. Do you have any recollection of talking to him Sunday afternoon? A. Not right now I don't.

Q. So you don't know right now whether you talked to him at all on Sunday, do you? A. Oh, I feel pretty sure that I did.

Q. Well, haven't you got any recollection of what time you talked to him Lieutenant? A. No, sir.

Q. You haven't any idea of how long you talked to him? A. No, sir.

Q. You don't know whether it was two hours or ten hours? A. I do, sir.

Q. Which was it? A. It was not ten.

Q. Well, you have no recollection, you said, Lieutenant. Have you some notes? A. I would have a recollection if it were ten hours.

Q. Would you have a recollection if it was four and a half hours? A. I might.

Q. Was it four and a half hours? A. I don't think so.

Q. How long was it? A. Probably a couple of hours.

Q. A couple of hours? And at the end of a couple of hours what happened? A. I probably interrogated Arthur Culombe.

Q. That is a guess, isn't it, Lieutenant? A. Yes, sir.

Q. I want your recollection. A. I have no recollection.

Q. As best you can give it to me. A. I am giving you the best that I can.

Q. And do you know, then? A. No, sir.

Q. So you don't know whether you questioned the or what happened after you questioned him for about two hours? A. No, sir. There was nothing of any real significance, so I made no note of it.

Q. While you questioned him, Lieutenant, on Sunday, did he not deny that he was involved in these things? A. That's right.

Q. So that was not significant to you? A. It, I felt, was not the truth so it had no real significance.

Q. If he had admitted participation, that would have been significant? A. And I could prove that he was admitting to the truth, it would have had some significance. Yes, sir.

Q. Did you attempt, when he denied it, to prove that he was not involved, on Sunday I am talking about?

MR. BILL: May I have that question, Your Honor?

THE COURT: Read it, Mr. Burke.

(Last question read by reporter.)

A. Yes, sir. My attempt is always to find the truth.

Q. So that when a man denies that he committed a crime, isn't that significant to you in your investigation of the crime? A. No, sir.

Q. All right, now you questioned him on Sunday for two hours, approximately. It would bring us sometime into two o'clock on Sunday afternoon. What did you do with him then? A. Probably talked to him some more. I don't know. I have no definite recollection. I am sorry.

Q. You don't know whether or not you talked to him on Sunday afternoon? A. I am sure that I did. What time I don't know.

Q. After you talked to him on Sunday, you said that your best recollection is two hours, that brings us up to about two o'clock. Now, what happened after that, do you know?

MR. BILL: Your Honor, I object to the question or the statement that it brings it up to a certain time. I haven't heard any time definitely tied together to come to a certain time.

THE COURT: Do you object?

MR. BILL: I object.

THE COURT: I will sustain the objection.

MR. BURKE: May I be heard, Your Honor?

THE COURT: Oh, surely.

MR. BURKE: The evidence is that he brought him up for questioning between ten and twelve o'clock. I think that we can find it there.

THE COURT: Yes, that is true.

MR. BURKE: Ten and twelve o'clock, plus two hours, would be about two o'clock.

THE COURT: Or twelve o'clock. And so I will sustain the objection.

MR. BURKE: All right.

Q. If you brought him up to start questioning at ten o'clock, it would be twelve o'clock? A. Yes, sir.

Q. If you started at twelve o'clock it would be two o'clock? A. Yes, sir.

Q. Now, tell me, Lieutenant, what did you do after the twelve or after the two, whichever alternative happens to be the fact? A. Continued to check on the information that he had given me,

Q. You didn't question him? A. I questioned him later.

Q. I mean after that.

THE COURT: Well, he said "later". Keep your voice up, because Mr. Burke missed that and I am afraid that the jury is missing some of it, too. Go ahead, Mr. Burke.

Q. Did you return him to his cell while you were checking these things? A. I have no recollection of that.

Q. Did you feed him any Sunday lunch? A. He was fed three times Sunday.

Q. You have a definite recollection of that?
A. Those were my instructions. I am sure they were carried out.

Q. I am asking you if you know if he was fed?
A. No, sir.

Q. It is a fact, isn't it, Lieutenant, he was not fed until you claim that you took him out that night?
A. It is not a fact, Mr. Burke.

Q. You don't know whether or not it is a fact, do you? A. It is not a fact that he ate the first time when I took him out that night.

Q. You don't know of your own knowledge whether he was fed or not fed on that Sunday, do you, Lieutenant? Under oath tell me. A. He was fed that Sunday.

Q. And you know that? A. Yes, sir.

Q. At what time did you feed him? A. If it was Sunday when I took him out to lunch -

Q. Did you take him out to lunch on Sunday? A. It was either Saturday or Sunday. Probably Sunday.

Q. At what time did you take him out to lunch on Sunday? A. I don't know. It was in the evening.

Q. In the evening? A. Yes, sir.

Q. At about what time did you eat lunch in the evening? A. It wasn't lunch. We had supper. I think that it was late. It was dark.

Q. About nine o'clock at night, would you say? A. I don't think that it was as late as that.

Q. What time? What is your best recollection? A. Five, six.

Q. Five or six o'clock? A. Just a guess.

Q. That is another guess? A. Yes, sir.

Q. Where did you take him from when you took him to this lunch at five or six o'clock. What room, what office, what cell, what building did you take him from, Lieutenant? Your best recollection. A. I am not the opinion that it was from my office.

Q. From your office? A. Yes, sir.

Q. How long had you been in your office then?
A. I don't know.

Q. What time did you lock him up on Sunday night?
A. Probably ten o'clock.

Q. Ten o'clock? What time did you get back from lunch after five or six o'clock? A. I am not certain of the time I went, but we spent probably an hour, an hour and a half at lunch.

Q. At lunch? A. Yes, sir.

Q. You and Mr. Taborsky? A. And Detective Matus.

Q. And Detective Matus? How many times did you and Mr. Matus and Taborsky go out to eat together?
A. Once.

Q. Once? That was to lunch on Sunday night?
A. It was to supper Sunday night.

Q. It was to supper Sunday night? Where did you feed him during the day, Lieutenant? A. I didn't feed him during the day.

Q. You don't know whether or not he was fed during the day, do you? A. No, sir.

Q. All right. When you got back from supper he was locked up at about ten o'clock, you say. Is that your best recollection? A. Yes, sir.

Q. It was later, wasn't it, close to midnight?
A. No, sir.

THE COURT: Perhaps this is a good place to stop, Mr. Burke. Escort the accused from the courtroom, please.

(Accused escorted from courtroom)

THE COURT: The alternates may retire to their room and the jury to theirs.

(The jury and alternates retired)

THE COURT: Short recess, Sheriff.

(RECESS 11:30 A.M.)

AFTER RECESS - 11:50 A.M.

THE COURT: Bring in the accused, Sheriff.

(Accused present in the courtroom.)

THE COURT: Sheriff, may I have the alternates, please, and the jury?

(Jury and alternates seated at 11:53 A.M.)

THE COURT: You may proceed, Mr. Burke, when you are ready.

MR. BURKE: May I have the last question and answer?

THE COURT: Yes, read it, Mr. MacGlashan.

(The reporter read the last two questions and answers before recess.)

SAMUEL ROME, on the stand.

CONTINUED CROSS EXAMINATION BY MR. BURKE:

Q. Isn't it a fact, Lieutenant, he was never locked up before midnight at anytime while he was held by you at the barracks? A. No, sir, Mr. Burke, that isn't the fact.

Q. You have a definite recollection of that?
A. Yes, sir.

Q. Now, you testified yesterday, Lieutenant, that on Sunday night the prosecutor of the New Britain court came to your office. Did you send for him? A. Yes, sir.

Q. Was that for the purpose of presenting Taborsky on a breach of the peace charge? A. Yes, sir, it was for the purpose of discussing the situation up to that time.

Q. And at that time did you ask the prosecutor to issue a warrant for the arrest of Taborsky? A. Yes, sir.

Q. Did he issue one? A. No, sir.

Q. Did you ask him to issue a warrant for the arrest of Taborsky for the commission of a felony? A. No, sir.

Q. You asked him for a warrant for breach of the peace? A. That was his suggestion.

Q. What did you ask him, Lieutenant, to issue - what kind of a warrant did you ask him to issue?
A. Whatever warrant he would see fit based on what we had.

Q. Well, you, under your Police powers of arrest, arrested him on reasonable grounds of belief that he had committed a felony? A. Yes, sir.

Q. And you told the prosecutor that, I assume?
A. Yes, sir.

Q. And you then asked him to issue a warrant for the arrest of Taborsky on breach of the peace? A. That was discussed. I think that came from the alternate prosecutor. This wasn't the prosecutor.

Q. Mr. Mangan, wasn't it? A. Yes, sir.

Q. Did you ask for him? A. Yes, sir.

Q. You sent for him for the purpose of issuing a warrant, didn't you? A. To discuss the case.

Q. You didn't even obtain from him a warrant on that particular night? A. No, sir.

Q. Why not? A. He was the alternate prosecutor. He wasn't serving that week in New Britain.

Q. He had authority to issue warrants - you knew that, didn't you? A. No, sir.

Q. You didn't. He had authority to issue warrants. A. Not when he is not on duty.

Q. And when he wasn't on duty would he have the authority?

MR. BILL: Objection, Your Honor.

THE COURT: I will sustain it.

Q. If he didn't have any authority to issue any warrants, what did you send for him for? A. Legal advice.

Q. Legal advice. You didn't send for the prosecutor, did you? A. No, I was of the opinion he was the prosecuting attorney that week.

Q. So you sent to New Britain to get the alternate prosecutor to come in on Sunday night and give you some legal advice? A. No, sir.

Q. You just stated you did, Lieutenant? A. I didn't ask the New Britain prosecutor — I talked to him, Mr. Mangan, on the phone and he said he would come up. He said he would come up and discuss it further with me.

Q. Now, all of the time Taborsky was with you until you put him under arrest under this suspicion of a felony statute, he kept telling you he wanted to go home, didn't he? A. No, sir.

Q. He didn't tell you that? A. No, sir, he didn't.

Q. He was happy to stay there with you? A. I wouldn't say happy.

Q. Was his liberty restrained? A. After his arrest?

Q. Before his arrest, Lieutenant? A. There was

no test made to determine whether or not his liberty was restrained.

Q. Now, let me ask you this. What time on Saturday did Taborsky ask you to see a lawyer?

MR. BILL: Objection.

MR. BURKE: Claim it, Your Honor.

MR. BILL: I haven't heard that mentioned before.

MR. BURKE: This is cross examination.

THE COURT: Well, you are raising the question.

MR. BILL: He has raised the question as though there were some testimony.

THE COURT: There is no evidence that I recall to that effect. I will sustain it. You may ask a preliminary question if you wish.

Q. Did Taborsky ask you to see a lawyer? A. No, sir.

Q. Not at all? A. No, sir.

Q. Isn't it a fact, Lieutenant, that he did ask you to send for Mr. Bergman? A. No, sir.

Q. Isn't it a fact that on that Saturday night when you held him he asked you to be permitted to contact Mr. Bergman - Mr. Nathaniel Bergman? A. No, sir.

Q. And you told him, "I will take that up later."? A. No, sir.

Q. That didn't occur? A. That did not occur.

Q. You have a definite recollection of that? A. I am positive.

Q. In that detail you are positive? A. I am.

Q. On Sunday morning did he not renew his request for an attorney? A. No, sir.

Q. And did you not again deny it? A. No, sir.

Q. On Sunday afternoon, didn't he ask you to be permitted to call Nathaniel Bergman? A. No, sir.

Q. Not at all? A. No, sir.

Q. You are sure of that? A. I am positive.

Q. So that at no time during the whole day of Sunday did he ask to see a lawyer? A. That is right.

Q. You had placed him under arrest on Saturday night? A. Yes, sir.

Q. You knew he had been in trouble before?
A. Yes.

Q. You knew that Bergman had been his lawyer?
A. I don't know whether I knew it at the time.

Q. Yet you say he never requested a lawyer?
A. No, sir.

Q. At anytime on Saturday? A. No, sir.

Q. At anytime on Sunday? A. No, sir.

Q. Anytime on Monday? A. No, sir.

Q. All this time you were questioning him?
A. Yes, sir.

Q. About crimes you suspected and told you thought he committed? A. Yes, sir.

Q. And at no time, with his background and experience, did he ask to see a lawyer? A. That is right.

Q. And at no time did you refuse to let him?
A. That is correct.

Q. Your memory is correct on that point? A. Yes, sir.

Q. Now, on Monday morning where was Taborsky, that is, February 25, 1957? A. At the barracks - I believe at the barracks.

Q. Still locked up in the barracks? A. Yes, sir.

Q. Did you see him Monday morning? A. I am quite sure Monday morning around noon - late in the morning.

Q. About what time, Lieutenant? A. Probably ten or eleven o'clock.

Q. Well, are you sure? A. No, sir.

Q. You say you are quite sure. A. About ten or eleven o'clock.

Q. About ten or eleven. Had he eaten before you saw him? A. I didn't see him eat.

Q. You don't know whether he had or not, do you? A. No, sir.

Q. In that cell there was still no towels or soap, was there? A. I didn't know that there was no towels or soap.

Q. Didn't he tell you on Monday morning again? A. No, sir, he didn't.

Q. Didn't he look dirty and unshaven? A. Unshaven, yes.

Q. Dirty? A. No, sir.

Q. Didn't he look dirty? A. No, sir.

Q. Didn't he tell you he hadn't washed since early Saturday? A. No, sir.

Q. And didn't you tell him you would take care of that later? A. No, sir.

Q. Are you certain of that, too? A. Yes, sir.

Q. Now, at what time on Sunday night did you bring Mrs. Culombe to see him? A. I didn't bring her to see him.

Q. When did you bring her to see him? A. She was transported to the barracks Tuesday night.

Q. She was transported to the barracks Tuesday night? A. That is my recollection.

Q. Now between Saturday afternoon and Monday afternoon, did you permit Taborsky to call his mother? A. The request wasn't made of me.

Q. Wasn't made to you? A. No, sir.

Q. Did you talk to Mrs. Taborsky during that period of time? A. Yes, sir.

Q. How many times did you talk to her? A. I don't know.

Q. You don't recall that? A. I don't - I talked with her.

Q. How many times? A. I don't know.

Q. Ten times? A. I wouldn't think it was that many.

Q. Five times? A. I wouldn't think it was that many.

Q. Where did you talk to her? A. On the phone.

Q. Did you go to her home? A. No, sir.

Q. Did you send anybody out there? A. I did.

Q. Who did you send? A. I can't recall just who I did send.

Q. How many times did you send him out?
A. Once or twice.

Q. Did you tell Joseph his mother was worried about him? A. I didn't know that she was worried about him.

Q. Didn't you tell him she was? A. No, sir.

Q. Didn't you tell him she was all upset and broken up about this thing? A. No. sir.

Q. And that he would do well to confess and ease her mind? A. No, sir.

Q. You told him that on Sunday, didn't you?
A. At no time.

Q. You told her to be in court on Tuesday morning in New Britain? A. No, sir.

Q. You told her then? A. I informed her of the time of the court.

Q. How did you inform her? A. By phone.

Q. So you called her and told her? A. I didn't tell her to be in court; I informed her of the court and time.

Q. Now, on Monday all day you questioned him again? A. No, sir, not all day.

Q. How many hours did you question him on Monday? A. I don't know.

Q. Haven't you any recollection of these details, Lieutenant? A. No, sir.

Q. Did you question him for ten hours? A. No, sir.

Q. Five hours? A. No, sir.

Q. Three hours? A. It could have been a total of three hours on Monday.

Q. Over how many periods? A. I don't know - perhaps the whole day.

Q. Starting at what time? A. When he was taken from his cell block.

Q. What time was that? A. Oh, that would be about nine o'clock.

Q. What time did you put him to bed that night? A. I didn't put him to bed.

Q. What time did you lock him up? A. I didn't lock him up.

Q. Who locked him up? A. I am of the opinion Sergeant Paige did.

Q. On your orders? A. Yes, sir.

Q. What time did you order him locked up? A. I don't know.

Q. Midnight, wasn't it, Lieutenant? A. No, sir.

Q. You don't recall that detail either? A. I am of the opinion - there was only one period he was locked up at midnight and that was the first day.

Q. On Monday he was locked up - your best recollection is what time? A. Before midnight.

Q. What time before? A. I don't know.

Q. Two o'clock in the afternoon? A. No, he was in New Britain at that time.

Q. Ten o'clock at night? A. It could be ten o'clock at night.

Q. What is your best recollection, Lieutenant? A. About ten o'clock at night.

Q. So that from nine to ten he was subjected to your questioning? A. He went to New Britain.

Q. Nine o'clock in the morning until ten o'clock at night, What time did he go to New Britain? A. Around noon.

Q. Around noontime. And you transported him over there? A. I believe I did.

Q. Did you question him these three hours in the morning? A. I don't know.

Q. You don't know. Did you question him the three hours in the afternoon? A. I have no recollection.

Q. Did you question him the three hours in the night? A. I have no definite recollection of having questioned him three hours in the night.

Q. Do you have any recollection where you questioned him, Lieutenant? A. No, sir.

Q. What did you question him about? A. I questioned him about murder.

Q. You don't know where and you don't know when and you don't know what time? A. It was Monday, it was at the State Police Headquarters and it was between nine in the morning and probably ten at night.

Q. Now, when he arrived in New Britain he was placed in the court in the retaining cage, or whatever you call it, right? A. No, sir.

Q. Where was he placed? A. He was booked. You are talking about Monday?

Q. Monday afternoon? A. He was booked at the New Britain Police Headquarters.

Q. And charged with breach of the peace? A. Yes, sir.

Q. What happened to the charge of the commission of a felony you had placed against him on Saturday night?

A. The prosecutor saw fit to charge him with breach of the peace.

Q. So on Monday he was booked - how long did that take? A. An hour or an hour and a half.

Q. And at that time was he questioned again by the New Britain Police over there? A. No, sir, I don't believe so.

Q. You don't believe it? A. I am quite sure he was not.

Q. So that at that time did he not again renew his request for a lawyer? A. No, sir.

Q. Didn't you again refuse him? A. No, sir.

Q. Didn't even mention a lawyer, did he Lieutenant? A. We discussed that.

Q. You discussed a lawyer? A. He and I discussed a lawyer.

Q. On Sunday? A. Yes, sir, and Saturday night.

Q. And Saturday night, too? A. Yes, sir.

Q. And in the discussion he didn't ask to see a lawyer? A. No, sir.

Q. He told you that he didn't want to see one? A. He didn't say that.

Q. Did you tell him that he couldn't see one? A. No, sir.

Q. Did you tell him that he could see one? A. He didn't ask for one. No, sir.

Q. He didn't ask for one and you didn't tell him he could see one, you didn't tell him he couldn't see one? A. That's right.

Q. So you didn't have much to say about a lawyer?
A. He understood that he was being held on an open charge of suspicion of a felony.

MR. BURKE: May I have the question read and the answer stricken, Your Honor?

THE COURT: The answer may go out. Read the question, Mr. Burke.

(Last question read by reporter)

A. No, sir, it was up to Mr. Taborsky.

Q. And he did have something to say about it? You discussed it? A. We discussed an attorney, yes, sir.

Q. And you didn't send for any attorney for him, did you? A. No, sir.

Q. And you didn't let him call one up, did you?
A. I did not deny him.

MR. BILL: I object to that question.

THE COURT: I will sustain it. The answer may go out.

MR. BURKE: I claim it. A question of credibility. He has been saying here for two days that he didn't ask for one.

THE COURT: I will have the question read, and then after you hear it you may make your argument, if you see fit. I don't think that it will be along the same lines that you are now making it. Read the question, Mr. Burke.

(Last question read by reporter)

THE COURT: There is no evidence here that he asked for it. This question implies that, so I will sustain the objection.

MR. BURKE: May I have an exception?

THE COURT: Surely.

Q. In your discussion about a lawyer on Saturday and on Sunday then, what did you talk about? A. The fact that he was not charged with any specific crime and that until such time as he was, it would not be necessary, and if he were charged with a specific crime and it was a felony, the crimes we were talking about, the State would give him one.

Q. Now, Lieutenant, the man was locked up, arrested, kept in a cell for two days, and that was the discussion about a lawyer? A. Yes, sir.

Q. During that discussion it came about, didn't it, that he wanted one, and that's the story that you handed him, isn't that so? A. No, sir.

Q. Didn't you tell him that he didn't need one, that the State would furnish one if he needed one, and he would not need a lawyer until he was so charged with something specific? A. Not those words, but -

Q. That is what you told him? A. Not those words.

Q. Substantially? A. Yes, sir.

Q. Yet you had him locked up without a charge, or an open charge which you never did anything about, and wouldn't permit him a lawyer?

MR. BILL: Objection.

THE COURT: Sustained. You don't need to answer that.

Q. After he was charged with breach of peace he renewed again his demand for a lawyer, didn't he?
A. No, sir.

Q. Didn't he ask you over in New Britain, told you that he wanted a lawyer? A. His mother, his sister and I in his presence discussed that.

MR. BURKE: May that go out, Your Honor, and may the question be read?

THE COURT: Yes, it may go out. Read the question, please.

(Last question read by reporter)

A. No, sir.

Q. Now, I believe yesterday you testified, Lieutenant, that in New Britain, in the presence of his mother and sister he said that he didn't want a lawyer? A. That's right.

Q. And this occurred when? A. After the arraignment in New Britain on Tuesday.

Q. On Tuesday? And where was this little gathering held, Lieutenant? A. In the prosecutor's office.

Q. Which sister was that? A. I don't know her name.

Q. You don't know her name? And you say that he said he didn't want a lawyer? A. Yes, sir.

Q. He said that definitely, "I don't want a lawyer." "I don't need a lawyer." A. Yes, sir.

Q. How did he say it? Is that what he said? A. I don't know the exact words, but he indicated that he didn't need a lawyer, didn't want a lawyer. Yes, sir.

Q. He had been asking you for a lawyer for a couple of days? A. No, sir, he had not.

Q. Isn't it a fact that in that prosecutor's room, Lieutenant, that there was no discussion whatsoever of a lawyer? A. That is not a fact. Not the truth.

Q. You are positive of that? A. I am positive of it.

Q. Now, when you questioned Taborsky on Sunday night and Saturday night he told you that on December 14th, he had been gambling, the night of December 14th, didn't he? A. Yes, sir.

Q. Now, yesterday you testified that he said he had stayed overnight in a gambling house. He didn't tell you that he stayed overnight in a gambling house, did he? A. Yes, he did.

Q. He told you that he was gambling all night, didn't he? A. Gambling in a gambling house all night.

Q. And he said that he was gambling somewhere in Connecticut? A. Yes, sir.

Q. He didn't say it was any kind of a house, did he? He didn't say that, did he, Lieutenant? A. He didn't use the word "house" probably. He was gambling all night.

Q. And he didn't tell you where it was, did he? A. No, sir.

Q. And he told you why he didn't tell you, didn't he? A. He told me - he refused to name the place.

Q. Yes, and he told you the reason why, didn't he? A. I believe he gave a reason.

Q. You know that he gave a reason, don't you? A. I believe he gave a reason.

Q. And the reason was that he didn't want the place raided, wasn't that the reason? A. I think that you are right.

Q. Now, on that particular night you talked to him about Culombe, too, didn't you? A. You are talking about Saturday night?

Q. Yes. A. I believe that I did.

Q. Didn't you also tell him this, Lieutenant, that until he talked his family would be bothered and harrassed by you? A. No, sir.

Q. Didn't you tell him that you would make it hard for his mother until you got from him the statement that you were looking for? A. You are saying that I told this to Joseph Taborsky?

Q. Yes, to Joseph Taborsky. A. That is not so, Mr. Burke.

Q. Didn't you also tell him that if he had any affection for his mother that he would talk? A. No, sir, I did not.

Q. Didn't you tell him that on Saturday night?
A. No, sir.

Q. While he was locked up? A. No, sir.

Q. Didn't you also tell him this, or didn't you "Culombe is a nut. If you talk he will get it and it will go easier for you. Why take the rap for a nut?" You told him that too, didn't you? A. I did not.

Q. Didn't you also tell him this, Lieutenant - I don't know whether it was Saturday night or Sunday night, or Monday night. Sometime in those days before Wednesday. Didn't you tell him that if he didn't start cooperating with you by confessing, that you would prove Mrs. Culombe was guilty of conspiracy to commit murder because she had knowledge of the guns? Didn't you tell him that?
A. No, sir, I did not.

Q. And when did you bring her to see Taborsky?
A. Tuesday. I didn't -

Q. Why did you bring her to see him? A. She was transported to the barracks to see Taborsky at her own request to determine for herself - or she was transported

to see Culombe - I am sorry - to determine whether or not her husband was guilty of these crimes..

Q. You brought her in to see Taborsky, didn't you?
A. Later I brought her in to see Taborsky, yes.

Q. And when you brought her in to see Taborsky she threw her pocketbook on the table, didn't she?
A. Yes, sir.

Q. And she said "One of you bastards better talk. These people have been after me and I want it stopped." She said that, didn't she? A. No, sir.

Q. She didn't say that? A. No, sir.

Q. Didn't she also say "I've got a couple of children and I'm not going to get mixed up in this." A. She could have. I don't remember her saying that.

Q. She didn't just stand there and say nothing to Taborsky when she came in, did she? A. No, she went for him as though she were going to beat him up.

Q. And you stopped her? A. Yes, sir.

Q. And she made the statement that I just stated, didn't she? A. No, sir.

Q. She didn't make that statement? A. I don't recall that statement.

Q. She didn't make that statement about you were going to pull her in on a conspiracy charge? A. No, sir.

Q. She didn't make that, either? A. No, sir.

Q. Did she mention her children? A. She said much to Joseph Taborsky in those few minutes. Whether or not she mentioned her children I don't know.

Q. Didn't you take any notes, Lieutenant? A. No, sir.

Q. Didn't think that it was important? A. No, sir.

Q. What time of day or night was this that she was brought to the State Police Headquarters? A. This was in the evening.

Q. What day? A. Tuesday.

Q. What time? A. I don't know. It was probably five or six o'clock.

Q. So what I stated to you, none of that happened, she didn't make any of those statements? A. I don't recall her making any of those statements, talking along that line at all.

Q. If she made that, you would have remembered it, she was making some statement about what pressure you were putting on her? A. No, sir, I was putting no pressure on her, Mr. Burke.

MR. BURKE: May I have the question read and the answer stricken, Your Honor?

THE COURT: Yes, the answer may go out. The jury will disregard it. Read the question, please.

(Last question read by reporter)

A. No, sir.

Q. You would not have recalled it? A. I would have recalled it.

Q. But you don't recall it? A. I don't recall it.

Q. You went out to see Mrs. Taborsky in the afternoon, didn't you? A. Yes, sir.

Q. What time? A. Three or four. I am guessing.

Q. Three or four, you are guessing? A. Yes, sir.

Q. What time did you get back to the barracks? A. If I went there at three I got back at four. I stayed a very short time.

Q. You questioned her out there, did you? A. Yes, sir.

Q. You questioned her about the guns, didn't you? A. No, sir. I - no, sir.

Q. Didn't question her about her knowledge of the guns that were in her house? A. No, sir. There were more important questions I had in mind at the time.

Q. You didn't want to know what she knew about the guns? A. I don't recall. I may have mentioned guns to her, but I had other more important questions in my mind.

Q. Didn't you also tell her that she was in a pretty tight fix with those guns in her house? A. No, sir.

Q. Didn't say anything about that? A. No, sir.

Q. Didn't mention the children in passing, either, did you? You were out there in the afternoon? A. No, sir.

Q. Didn't you testify yesterday, Lieutenant, that Mrs. Culombe came to the barracks in the evening? A. Yes, sir.

Q. Do you want to change your testimony? A. No, sir.

Q. You say now that she came in the afternoon? A. I didn't say in the afternoon. I don't recall having said in the afternoon.

Q. Well, what did you say? A. I visited her home in the afternoon.

Q. Yes, and you got back to the barracks? A. Five or six o'clock, I said.

Q. And shortly after you returned to the barracks she was brought in? A. She arrived, yes, sir.

Q. Let me ask you this question. What day was it that you came in to see Taborsky after there was a scuffle or a noise in the room in which you had Culombe?

MR. BILL: Objection.

THE COURT: Sustained.

Q. Did you come into the room in which you were holding Taborsky, and tell or say over your shoulder "You had better get a doctor for that fellow?" A. No, sir.

Q. And did you stage some kind of fracas or racket over there to make him think - A. No, sir.

MR BURKE: Will you wait until I finish the question?

THE COURT: Yes, you will wait until he finishes the question, and then answer it. Go ahead, Mr. Burke.

MR. BURKE: May I have the question so far, please?

THE COURT: Yes, read it as far as he went.

(Last question read by reporter)

Q. - to make him think that you were beating up Culombe? A. No, sir.

Q. And did you come in and tell him over your shoulder, or look back, "You had better get a doctor for that fellow?" A. No, sir.

Q. That never happened? A. No, sir.

Q. Now, when Mrs. Culombe came in and made the statements to Taborsky, he told her he didn't know what she was talking about, didn't he? A. Words to that effect, Mr. Burke.

Q. Yesterday you testified that he remained quiet and said nothing?

THE COURT: Is there a question pending?

MR. BURKE: Yes.

THE COURT: It sounded more like a statement to me. Read it, Mr. Burke.

(Last question read by reporter)

THE COURT: It still doesn't sound like a question to me.

Q. Didn't you testify to that yesterday? A. I may have.

Q. Let me refresh your recollection:

"Q. What was said?
"A. I remember her throwing her bag down - her handbag down on the floor, and she started to charge at Joseph Taborsky -"

THE COURT: Not quite so fast, Mr. Burke.

"- accusing him of causing her husband a lot of trouble.

"Q. Did Taborsky respond to that?
"A. No, he remained very quiet."

Q. Do you recall that testimony? A. I do now.

Q. He didn't remain quiet though, did he? A. It would mean the same to me, as an officer, remained quiet or denied it.

Q. Remained quiet or denied means the same to you as an officer? A. Remained quiet or denied it means the same to me.

MR. BURKE: May I have that question?

THE COURT: Read it.

(Last question read by reporter)

Q. You also testified yesterday the reason you brought Mrs. Culombe to the headquarters was to use her as another way of getting a confession? A. Yes, sir.

Q. And did you expect to use her on Taborsky, too?
A. If I could.

Q. If you could - what other means or other ways did you use on Taborsky? Did you use his mother?
A. You could interpret it that way.

MR. BURKE: Would Your Honor excuse me a moment?

THE COURT: Surely.

MR. BURKE: I think that is all.

THE COURT: Mr. Bill, is there anything further?

MR. BILL: No questions, Your Honor.

MR. McDONOUGH: I am not through.

THE COURT: How many questions, Mr. McDonough?

MR. McDONOUGH: Just a couple on his testimony on examination by Mr. Burke.

THE COURT: New matter?

MR. McDONOUGH: New matter.

THE COURT: All right.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. You just testified, Lieutenant, you used Mrs. Culombe—note that—you used her—that is your own expression—to get a confession for Culombe. You also said you would have used her on Taborsky if you had to. In other words, Lieutenant, you would use that woman, to use your own expression. A. I don't think those are my exact words.

MR. McDONOUGH: May they be read back—the last few questions?

THE COURT: Indicate to Mr. MacGlashan what you want read.

MR. McDONOUGH: The last two or three questions of Mr. Burke and the answers.

THE COURT: Will you read it, Mr. MacGlashan?

(The reporter read the question—"Q. You also testified yesterday the reason you brought Mrs. Culombe to the headquarters was to use her as another way of getting a a confession? A. Yes, sir.")

MR. McDONOUGH: Stop there.

Q. You did use that expression, "to use her"?
A. Yes.

Q. You did use her, didn't you, yes or no? A. I tried.

Q. You testified in your testimony that is in the record here yesterday that Mrs. Taborsky or Mrs. Culombe threw her bag on the floor? A. Yes, sir.

Q. You testified in answer to Mr. Burke's question that she threw her bag on the table? A. Mr. Burke said she threw it on the table.

THE COURT: That may be stricken. Let him finish his question. Go ahead.

Q. The record shows, Lieutenant, that in answer to Mr. Burke's question, you said she threw her bag on the table, and you said yes, sir, now. Did she throw the bag on the table? A. I am of the opinion—

Q. Did she throw the bag on the table?

MR. BILL: He started to answer that.

THE COURT: I think he did. Go ahead and complete it.

THE WITNESS: I am of the opinion she threw the bag on the floor.

Q. That is the way you testified yesterday? A. Yes.

Q. Why did you say to Mr. Burke when he asked you that she threw it on the table? A. It meant the same thing.

Q. Different words meant diifferent things to you, Lieutenant, is that right? A. Different words often mean the same thing.

Q. Just like a moment ago when Mr. Burke inquired of you—

MR. BILL: Objection.

MR. McDONOUGH: I'm not through.

Q. When Mr. Burke inquired of you on Taborsky's reaction — the expression "remains quiet or denies it" means the same thing. Do they mean the same thing?

A. From a Policeman's point of view at a time like this I am of the opinion it does.

Q. Are you testifying as a policeman or a witness telling the facts and the conversations and the acts as they took place? A. I am testifying as a policeman and a witness and telling the truth to the best of my recollection.

Q. Then I said, "Or as a policeman or as a witness testifying to facts and conversations and words that took place", and your answer is that you are testifying as a policeman? A. And a witness to the best of my recollection.

Q. But you are testifying as a policeman?

A. Yes, sir.

Q. And you are testifying as a policeman to get a conviction in this case, isn't that true?

MR. BILL: Objection.

THE COURT: Sustained.

MR. McDONOUGH: Exception.

Q. You are not testifying, Lieutenant, as a disinterested witness, are you?

MR. BILL: Objection.

THE COURT: Sustained.

MR. McDONOUGH: Claim it, exception.

THE COURT: What is your claim for it?

MR. McDONOUGH: Because he should testify as a disinterested witness.

THE COURT: But you had a rather lengthy cross examination yesterday. I am not complaining and I will allow on cross examination what new matter you wish to bring out. Now, it seems to me you are going back into matter that is not new matter, so I will allow an exception.

MR. McDONOUGH: Your Honor, I am not examining on new matter—I mean I am examining on new matter when I examine about what Taborsky's reaction was.

THE COURT: I am not complaining about that. I am passing on this question when you go into his interest or disinterest as a witness.

MR. McDONOUGH: I am not going to pursue that further.

Q. The fact of the situation is that he didn't remain quiet? A. You are talking about the time Mrs. Culombe—

Q. Yes. A. I say what he said or did not I have no definite recollection of.

Q. He said something, didn't he? A. He could have.

Q. Page 401 of the transcript shows that you said, after the testimony about her throwing the pocketbook down: "Did Taborsky respond to that?" And your answer under oath was, "No". Did he respond? A. Not the response I expected.

Q. I will leave it that way. But he did respond?
A. If he did respond.

Q. He did respond, didn't he, Lieutenant, yes or no—never mind what you—

THE COURT: Now, please, never mind that comment. It may go out.

Q. He did respond, didn't he? A. He could have.

Q. So that when you told this Court and jury that "No" when you were asked if he responded: "No, he remained very quiet"—those are your own words—you were not telling this Court and jury the truth, were you? A. I was to the best of my recollection, Mr. McDonough.

Q. He did not remain very quiet, did he? A. I don't know.

Q. You were there, Lieutenant, weren't you? A. I was.

Q. Didn't he say something? A. He could have.

Q. Did he? A. I don't know.

Q. You were there—was your hearing good? A. I always thought it was.

Q. Well, your hearing was good that night, wasn't it?
A. I recall having no trouble with it.

Q. Do you want this court and jury to let it stand this way that you testify as a policeman and do not remember whether he made a response? A. I want them to believe I don't recall exactly what that response was.

Q. He did respond then, didn't he? A. If he did respond.

Q. You say you don't recall exactly what he responded. How is it you don't recall exactly? A. I don't have that kind of a memory.

Q. Do you have a poor memory? A. I don't think so.

Q. A good memory? A. It depends.

Q. It is important in this trial — it is important whether you have a good memory as to what happened between Mrs. Culombe and Mr. Taborsky that night.

MR. BILL: I object.

THE COURT: I will sustain the objection.

Q. See if this will refresh your recollection, Lieutenant. What did Mrs. Culombe say to Taborsky after she threw her pocketbook on the floor? A. She accused him.

Q. What did she say? A. I don't know exactly.

Q. The words? A. I don't know exactly.

Q. How long have you been a lieutenant in charge of Special Services? A. A little more than two years.

Q. This conversation only took place a matter of a few months ago and you were in charge of the investigation and you cannot remember? A. I can't remember a lot of things.

Q. You want it understood you can't remember— for the record? A. No, talking about this incident?

Q. Yes.

THE COURT: He can't answer that. If you don't understand the question tell me you don't understand.

Q. Put it this way, Lieutenant—if there was any profane language used, you might remember forceable language, wouldn't you? A. Something that might have impressed me I might remember.

Q. Wouldn't it impress you if Taborsky said to Mrs. Culombe, "What the hell are you talking to me for? I don't know anything."? Wouldn't that impress you? A. Yes.

Q. And didn't Taborsky say that? A. He could have.

Q. He could have. Didn't Mrs. Culombe begin to get excited and she was let out? A. Yes.

Q. Didn't she say to Taborsky that she was told that she was brought down to make her husband confess?
A. No, sir.

Q. What did she say to Taborsky? What do you remember she said?
A. My recollection is she told Taborsky that she came down to ask her husband to confess.

Q. Didn't she swear at Taborsky? A. She could have.

Q. She made a physical charge at him, didn't she?
A. Yes, she did.

Q. And then she referred to him and her husband in a swearing expression? A. I don't understand.

Q. Let us leave it this way, Lieutenant. When you testified that in response to Mrs. Culombe's charge or question or statements to Taborsky—when you testified yesterday—it appears in yesterday's record on page 401—that Taborsky did not respond and remained very quiet, that

wasn't the fact? A. No, I don't know whether or not it was.

Q. In other words, you don't know whether or not what you testified is the truth in that respect? A. It is the truth.

Q. Then he did remain very quiet or he did not — which did he do? A. He didn't say anything concerning this investigaton to me that made an impression on me.

Q. He did say something then, didn't he? A. I don't know—he didn't say anything that made an impression on me.

Q. We aren't interested in that. Did he say anything? A. I don't know.

Q. He might have said to her, "What the hell are you talking about?" A. He might have.

Q. But you wouldn't testify to that because you didn't remember that? A. That is right.

Q. And is it that you don't want to remember it? A. That is not so.

Q. You testified this morning you made no notes of this conversation? A. That is right, they were unimportant.

Q. The only notes you made in the entire interrogation of Taborsky or Culombe were notes when you got a so-called confession, that is right, isn't it? A. No, sir.

Q. Did you make any notes of their denials of guilt? A. I believe the reports would reflect that.

Q. Did you make any notes — I am not interested in the reports—did you make any notes of the many denials of guilt that Taborsky and Culombe made? A. I don't know.

Q. Did you make any notes at all of conversations?
A. No, sir.

MR. McDONOUGH: That is all.

MR. BURKE: May I ask two questions?

THE COURT: Yes, and I will be counting this time.

CROSS EXAMINATION BY MR. BURKE:

Q. Did you make any kind of a memorandum concerning the meeting between Mrs. Culombe and Taborsky?
A. No, sir.

Q. Wasn't the room in which Taborsky was and where you brought her wired up so that whatever went on in one could be heard or recorded? A. Yes, sir.

Q. Where is the recording? A. There was no recording made.

Q. Did someone listen in? A. No, sir—I am sorry —not to my knowledge.

Q. Well, if they had you would know it, wouldn't you, Lieutenant? A. Not to my knowledge.

Q. When they listen in do they make notes? A. It all depends. It depends on who is listening in.

Q. Were you in charge of the investigation?
A. Yes, sir.

Q. Didn't you tell somebody to listen in to this conversation? A. No, sir.

Q. Did you ascertain whether anyone had listened in?
A. No, sir.

Q. When they do listen in do they keep a record or a memorandum?

MR. BILL: Objection.

THE COURT: Sustained.

Q. If they had listened in to this conversation would a memorandum have been made?

MR. BILL: Objection.

MR. BURKE: Claim it, Your Honor.

THE COURT: Sustained. The question of whether or not a record was made is admissible, but if they did anything is not.

Q. Was a record made by the person who was listening in? A. No, sir.

Q. You are certain of that? A. Positive.

Q. Who was listening in? A. I don't know that anyone was.

Q. How do you know they didn't make a record if you don't know they were listening? A. It would have been reported to me.

MR. BURKE: That is all.

MR. McDONOUGH: I have one question.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. Have you taken a memory course in connection with the testimony you have given in this case? A. I don't understand the question.

Q. All right. Do you remember a question asked of Sergeant Paige yesterday about an instruction that when you don't know the answer to a question say I don't remember? Have you gone through such a course, Lieutenant? A. No, sir.

MR. McDONOUGH: That is all.

THE COURT: Mr. Bill, anything further?

MR. BILL: No further questions.

THE COURT: You may step down, Lieutenant.

(Witness excused.)

THE COURT: Do you understand that this is the point where the jury should be excused?

MR. BILL: Shortly after the witness is on the stand, Your Honor.

THE COURT: Oh, all right.

MR. BILL: Sergeant Paige.

DONALD PAIGE, having been previously sworn was recalled by the State and testified as follows:

THE COURT: Sergeant Paige has been sworn. Sit down, Sergeant.

DIRECT EXAMINATION BY MR. BILL:

Q. Sergeant, on Wednesday, February 27th, whether or not you investigated this case further? A. Yes, sir.

Q. And whether or not you had a conference with Culombe that day? A. Yes, sir.

Q. And where was it? A. In the State Police Headquarters.

Q. And about what time? A. At 1:30 p.m.

Q. And was there anybody else with you other than Culombe? A. Not at first. After a short while Detective Murphy was with me, and later Lieutenant Rome.

Q. And what matters did you discuss with Culombe at that time?

MR. McDONOUGH: This is the 23rd, Mr. Bill?

MR. BILL: The 27th. Wednesday, the 27th.

A. We were asking his cooperation in regards to locating some guns, and so forth.

MR. McDONOUGH: May I have that question read, Your Honor?

THE COURT: Surely. Read the question and the answer, Mr. Burke.

(Last question and answer read by reporter.)

MR. McDONOUGH: Thank you.

THE COURT: Go ahead, Mr. Bill.

Q. Were you investigating all these various matters that we have spoken of here, including the New Britain matter? A. Yes, sir.

Q. And did there come a time when he made a statement? A. Yes, sir.

MR. BILL: At this point, Your Honor.

THE COURT: All right.

Q. Now, it becomes necessary for me to hear counsel, or whatever further proceedings there are, in the absence of the jury, but it being almost ten minutes of one I am going to excuse you for lunch. You will not talk about this case to anyone or allow anyone to talk to you about it. If there is anything in the papers you won't read it. Should there be anything on the radio or television you will ignore it. When you come back at two o'clock will you report directly to the juryroom, and you to the alternate room. You may now leave.

(Jury and alternates excused from the courtroom.)

(The following occurred in the absence of the jury and the alternates.)

THE COURT: You may proceed, Mr. Bill.

Q. In the course of this conference with Culombe on that Wednesday afternoon what was said toward the end of your conference there—I will withdraw the question. Did he finally make a statement to you? A. Yes, sir.

Q. And leading up to that statement what was said between you and him, if anything?

A. When we first entered the room, which was about 1:30 he and I sat down, we had a little talk, and we agreed that he was going to stop lying to me.

MR. McDONOUGH: Now, I object to this, may it please Your Honor, "We agreed that he was going to stop lying to me." It's all conclusions. I think that this ought to be conducted by what did this witness say, what did Culombe say. I move to strike out that answer and proceed on the other basis.

MR. BILL: I don't claim it, Your Honor.

THE COURT: Then it may go out and we will proceed on the other basis.

Q. Instead of saying that you agreed, will you state what was said between the two of you in the way of conversation, as approximately as you can?

A. I told Culombe that he had been lying to me right along and that instead of—when I asked him a question instead of lying to me, that he would say that he didn't want to talk about it.

Q. Go ahead. A. Then I went over various matters with him and in answer to my question he said "I don't want to talk about it."

Q. You mean by that—this is in the absence of the jury, so you can have a little more liberty, Sergeant. Were you discussing the various crimes that were being investigated at that time? A. That's right, sir.

Q. And when you spoke of matters that he didn't want to talk about, what did you refer to?

A. I was referring to different crimes that had occurred around the state.

Q. And that were under investigation? A. That's right, sir.

Q. At that time? And what did he say to that?

A. "I don't want to talk about it".

Q. No, I mean, what did he say to your proposition?

MR. McDONOUGH: That's what he said.

THE COURT: Now, Mr. McDonough—go ahead, Mr. Bill.

Q. I am afraid that you misunderstood me, Sergeant. You stated to him that if he came to something that he didn't want to talk about to say that, is that it?

A. That's right, sir.

Q. What did he say in response to that, if anything, that proposition that you made? A. He agreed.

Q. And then did you continue your discussion?

A. Yes, sir, we did.

Q. Now, did you ultimately discuss the New Britain case? A. Yes, sir, we did.

Q. The case that is now here in Court?

A. Yes, sir.

Q. And tell us what he said in relation to the New Britain case? A. I read from a piece of paper that I had, which stated that on December 15th, at six p.m. Kurpiewski and Janowski were shot and killed at Kurp's gas station on Stanley Street, New Britain, and I asked him "Were you there, Arthur"? And he said "I don't want to talk about it".

Q. Continue from there on as you remember it.

A. Well, I called in Detective Murphy at that time and I left the room for a short while and I came back in again and Detective Murphy went over the same crimes with him and received the same responses.

MR. McDONOUGH: Just a moment. Were Detective Murphy and you in the same room together?

A. Yes, sir.

MR. McDONOUGH: I didn't mean to interrupt. It was wrong on my part I know.

THE WITNESS: All three were together.

Q. You started out with you and Culombe?

A. That's right.

Q. And after he made this statement about he didn't want to talk about the New Britain affair you called Murphy in? Is it Detective Murphy? A. Yes, I called Detective Murphy in.

Q. So he joined you two? A. That's right.

Q. That made three of you? A. That's right.

Q. Did you say that he said something? A. Detective Murphy asked him questions about the same crimes I had talked to him about, and he got the same response.

Q. And had he made a reply about the other crimes?

A. Yes, he did.

Q. Prior to your reaching the New Britain crime?

A. Yes, sir.

Q. Was there anything that he did talk about?

A. I asked him about a crime that had been committed in Bridgeport and he said "I wasn't there".

Q. Is that the only crime that he commented on that you discussed at that time?

MR. McDONOUGH: I object to the form of the question.

MR. BILL: I'll withdraw it.

Q. Was there any other crime he discussed other than saying the words that he wouldn't discuss it?

A. No, I asked him about the crimes that we had in Norwalk, and he said "I wasn't there".

Q. Did you ask him about any other crimes around Hartford? A. I asked him about the Rosenthal killing.

Q. What was his reply? A. "I don't want to talk about it".

Q. Did that come before the New Britain case? In order of precedence, as you asked it? A. I don't know exactly what order that came.

Q. But you asked about that? A. That's right.

Q. And what did Sergeant Murphy say to him?

A. Detective Murphy went over the same list of crimes that I had in the same manner, and received the same response.

Q. Then what happened, if anything?

A. Shortly after that, while we were talking to him, I received some information, and as a result of this information I asked Culombe whether or not we would find the guns that had been used, under water. I asked him if we would find them in the woods and in the brook in back of his home. I told him that he had been seen walking around that area and I asked him if that was where we would find the guns that had been used.

Q. Did he reply to that? A. He said that he didn't want to talk about it.

Q. What went on beyond that? A. I accused him at that time of having committed this New Britain—or having been involved in this New Britain killing, and his response was still the same, that he didn't want to talk about it. I asked for his cooperation in finding the guns that had been used, and every time I asked him that I got the same response, that it was a hard decision for him to make.

Q. It was a hard decision for him to make?
A. That's right.

Q. To that question, you mean? A. Yes, asking for for his cooperation to show us where the guns were.

Q. Did there come a time when he made a reply to that question? A. He finally told us that we were looking for four guns, that we were looking for two people, and he also stated that he himself had done no shooting.

THE COURT: I think, Mr. Bill, we will stop here. You may escort the accused from the courtroom.

(Accused escorted from courtroom.)

THE COURT: May I see counsel at the desk, please?

(Conference at bench.)

THE COURT: Sheriff, recess until two o'clock.

(Recess at 1:00 P.M.)

AFTERNOON SESSION—JUNE 7, 1957

THE COURT: Sheriff, will you get me the alternates and the jury?

Ladies and gentlemen of the jury, I wish this could have broken a little better for you, but I couldn't tell when

I excused you for lunch that the matter going on before me without the jury would take the rest of the afternoon, but I have no desire to keep you here.

I will excuse you until Tuesday morning at 10:00 o'clock with the usual instructions, that you are not to talk to anyone about this case or allow anyone to talk to you about it; and should there be anything in the papers, and there probably will be, you will not read it; and should there be comments about it on the radio or television, you will ignore it.

When you come in Tuesday morning, you will report to the jury room and the alternates to their room.

You are now excused until Tuesday morning at 10:00 o'clock.

MR. McDONOUGH: I wonder if I could have a short recess; I want to see Your Honor in chambers.

THE COURT: Surely. Short recess.

AFTER RECESS:

(In the absence of the jury.)

(The accused were present in the courtroom.)

MR. McDONOUGH: I have a subpoena here, Your Honor, which we properly served returnable yesterday afternoon at 3:30 and was ignored. I ask that a capias issue forthwith.

THE COURT: A capias may issue.

DONALD PAIGE RESUMED:

(Last two questions and answers read by the Reporter).

CONTINUED DIRECT EXAMINATION BY MR. BILL: (In the absence of the Jury).

Q. Had anything preceded this statement, Sergeant, when Sergeant Murphy came into the room? A. When Sergeant Murphy came into the room, he went through the same list of crimes that he had. We had a sheet of paper with all the crimes throughout the county that we thought these two might be involved in.

Q. Yes, I think you testified to that, but before he made this statement about the guns, and so forth, had there been any questions and answers from Murphy to Culombe?

A. Well, Murphy had asked him about the same questions I had, but he did ask him at one time if he was in fear of Taborsky.

Q. What did he say? A. He said he was.

Q. And where did that come in relation to this conversation? A. Well, part of it was before, and part was after, and some of it was repeated again.

Q. Now, continuing from the subject about the guns and the two men, will you continue on from there? What happened? A. We were asking him to show us where the guns were, and finally he said he had thrown the guns in the water and that we would have to dig some of them out, and then he finally agreed to show us where they were.

Q. Yes. And this was all at the barracks?
A. That's right, sir.

Q. And what did you do when he agreed to show you where they were? A. We went to Lieutenant Rome — myself and Detective Murphy and Detective O'Brien and accompanied Culombe to his home on 20 Coleman Drive.

Q. What car did you go in—the State Police car?
A. The State Police cars.

Q. Who was in the cars? A. Murphy, O'Brien, Lieutenant Rome, Culombe and myself.

Q. And whether or not you know whether Detective O'Brien took any notes at that time? A. He did.

Q. And can you tell us substantially what was said in the car between Culombe and any of the officers, if you can remember? A. Well, Lieutenant Rome was asking him about the New Britain shooting.

Q. Go ahead. A. Well, there was a period of about ten minutes or so between the time we left and got to Culombe's house.

Q. And Detective O'Brien was taking notes?
A. He was.

Q. And did you ultimately get to Culombe's?
A. Yes, we went to Culombe's house.

Q. Where was that? A. 20 Coleman Drive.

Q. In the south part of the city? A. Yes, sir.

Q. What did you do when you arrived there?
A. We went up to his home.

Q. Did you all go in? A. Yes, sir.

Q. Was there anybody there when you arrived?
A. Mrs. Culombe was there.

Q. What happened when you got in the house?
A. Culombe went into the bathroom and showed Lieutenant Rome—I was present, and there was a photographer present from the State Police barracks—and showed him where he had some guns and a blackjack he had in back of a medicine cabinet in the toilet. He had removed the medicine chest, and inside was a bag which contained a gun and two blackjacks.

Q. Did Culombe say anything to you at that time or later on questioning by you as to when that was put there?
A. Yes, he said that at the time I came to the house

the first time—he says, "I had those guns there", and that he had hidden the guns he had given me after in the cat box in the toilet.

Q. I think you said you had heard a metallic sound when you went there before? A. Yes.

Q. And did you check him on that? A. That is the time he was putting the guns away in back of the medicine chest.

Q. Did the medicine cabinet have to be removed to locate the guns? A. Yes, I believe there were two screws holding it in place.

Q. What kind of guns were these? A. I don't know. There was one gun there and a couple of blackjacks, and Lieutenant Rome took them into possession.

Q. What else happened? A. Then we had Culombe open up the safe again, and Lieutenant Rome looked through it and took a couple of gun clips along with a couple of parts of other guns from it.

Q. Anything else happen there that you remember? Did you go outside the house into the field at all?

A. Yes, when we left the house we went over to Dexter Street.

Q. With whom? A. Culombe directed us over there.

Q. Where is Dexter Street in relation to Culombe's house? A. Just a short distance away.

Q. What do you mean by that? A. It only took us a few minutes to get up there.

Q. Two or three blocks away—five or ten minutes?

A. It took us two or three minutes to reach there.

Q. You walked? A. No, we drove.

Q. Did everybody go over there? A. Yes, sir.

Q. That was in the car on the way down to his house? A. Yes, sir.

Q. The officers you named and Culombe? A. That's right.

Q. And at what point did you arrive at? A. We stopped on Dexter Street and there was a pond.

Q. Was that at the direction of Culombe? A. Yes, sir.

Q. And what did you find? A. He told us in this small pond we would find two guns that had been used in New Britain.

Q. And was that search made at that time? A. Not for the guns.

Q. And was anything else mentioned by Culombe at that time? A. Yes, there was another pond attached to to this first one and he directed us to this place—that is, we drove around in back of it sort of, and he showed us and told us he had thrown a coat in there because it had blood on it.

Q. Was that recovered at that time? A. Detective Murphy was able to pull out this coat which was in a tight package by standing on a limb and pulling it out.

Q. Did you know anything about that coat?

MR. McDONOUGH: I object. The coat is the best evidence.

Q. Did somebody take possession of the coat? A. Yes, sir.

Q. Who, do you know? A. Murphy.

Q. He is the man who found it? A. That's right.

Q. Was anything else done or said down there at

Dexter Street or at the house? A. Yes, we went back to the house, and down in the cellar of the house there was a big long chest, and he told us he had a few parts of a gun in there underneath wrapped in a package, and we were able to lift it up by using boards and a sort of pulley effect, because it was a very heavy item, and underneath that there was a package with a gun in it.

Q. Who took possession of that, if you remember?
A. Lieutenant Rome.

Q. Anything else then at the house that was said or done that you remember? A. No, sir, not at the house.

Q. Did you ultimately leave the house? A. Yes, sir, we left the house and drove over to Chandler Street.

Q. Where is Chandler Street, in Hartford?
A. Yes, sir, about a block or so away from the house.

Q. Is that toward Dexter Street or the other way?
A. It would be to the left of the project; Dexter Street is to the right.

Q. Did all of you go? A. Yes, sir.

Q. And what did you find when you got there?
A. He showed us a brook running—

Q. When you say "he", you mean Culombe?
A. Culombe showed us a brook which runs under Chandler Street, and he said that he threw some of the victims' pocket books and bill folds and keys into the brook.

Q. Did he name the victims—I don't mean by name, but you had several matters you had under investigation, had you not? A. Yes, sir.

Q. Did he speak of what episode this was?
A. If my recollection is right, he said he thought the bill folds were from the New Britain job there.

Q. At that time was any search made for those?
A. Very little search. I went out and looked for a while.

Q. A search was made later? A. Yes.

Q. What happened after that, if anything? A. We drove over to Hymie Borden's Auto Sales on Main Street, Hartford.

Q. By whose direction? A. Culombe's.

Q. And before you went there he gave you the direction. A. Yes.

Q. Was some matter discussed? A. A matter of a car.

Q. Whose car? A. Culombe's.

Q. Give us the discussion leading up to it.
A. I don't remember the exact words.

Q. Well, substantially, if you remember it—tell us the discussion. A. He told us he had used a 1949 Oldsmobile colored black on the New Britain job and brought us over to Hymie Bordens to show us that car.

Q. And you went there? A. Yes.

Q. And a car was pointed out to you? A. Yes, sir.

Q. By whom? A By Culombe.

Q. Did you talk with the owner of the station?
A. No, I didn't.

Q. And did the description Culombe had given you down in New Britain before you started over to Borden's correspond with the car you ultimately found there that he pointed out to you? A. Well, we hadn't been to New Britain.

Q. I am sorry—down at Culombe's house.
A. That was the car that answered the description.

Q. And after being at Borden's place and having seen the car, what did you do then? A. He also indicated at Borden's—he said he had also thrown some other wallets in a stove there.

Q. And what else? A. I don't remember whether we came back to the barracks at that time or went over to East Hartford.

Q. Did you sometime go to East Hartford? A. Yes, in back of a trucking company he indicated a spot where there were some keys or wallets were supposed to have been thrown.

Q. Was anything found there? A. I didn't search at that time.

Q. In connection with what episode was that, if you remember? A. I believe that was in the Cohen killing in East Hartford.

Q. Are you clear yet when that trip took place—in the sequence? A. No, I am not quite sure about that. I don't know whether we went to East Hartford at that time or at a different time.

Q. Ultimately where did you arrive? A. We came back to the barracks.

Q. And was there any further talk there at the barracks with Culombe by you or anybody? A. That is the time we sat down and he started to give us the written confession.

Q. Were you there? A. Yes, sir.

Q. About what time was this, do you remember? Was it in the afternoon or evening? A. No, it was in the evening—after supper.

Q. What time had you returned to the barracks, if you remember? A. I am not quite sure of that.

Q. Before supper or after—did you eat on the way or after you got to the barracks? A. I can't remember, sir.

Q. Now, you say that a statement was made at that time? A. Several of them.

Q. Well, a written statement? A. That's right.

Q. There weren't several of those, were there?
A. There was a statement for each crime.

Q. Yes. In other words, these various crimes that were being investigated were kept separate? A. That's right, sir.

Q. And was there a written statement and a confession as to the New Britain murder? A. There was.

Q. And were you present when it was made?
A. I was.

Q. Did you witness it? A. I did.

Q. You didn't actually witness it with your signature, did you? A. I believe that I did.

Q. Do you think that you would recognize it if you saw it? A. Yes, sir.

Q. That is, the statement itself? Refreshing your recollection, looking at the statement there, what is that?
A. That is the statement of Arthur Culombe.

Q. That is the so-called confession of the New Britain matter? A. The first one.

Q. And does your name appear there actually as a witness? A. It doesn't on this copy.

Q. Are you familiar with the contents of that confession? A. I believe so.

Q. At any time before this confession—that is withdrawn. Was this signed by Culombe in your presence?
A. Yes, it was.

Q. Was it read to him? A. It was read to him and then he signed it.

Q. And was that true in each case? A. Yes, sir.

Q. The different episodes? At any time leading up to this confession in which you took part did you or anybody else in your presence make any promise of reward or immunity? A. No, sir.

Q. Did you put Culombe in fear? A. No, sir.

Q. Did you use any force? A. No, sir.

Q. Or compel him to sign this? A. No, sir.

Q. Was Columbe cooperative all through these proceedings from the time that you described since you have now been on the stand, describing the interview of Wednesday afternoon, on through?
A. Yes, sir. Once he started talking he told us everything that he knew.

MR. BILL: Your witness.

THE COURT: Mr. McDonough.

MR. McDONOUGH: May I see that, Mr. Bill?

MR. BILL: Yes, perhaps we ought to have that marked for identification, Your Honor.

THE COURT: All right. State's Exhibit Z for identification.

(Statement of Arthur Culombe, marked "State's Exhibit Z for Identification" in Case No. 21666).

CROSS EXAMINATION BY MR. McDONOUGH:

Q. Showing the witness State's Exhibit Z for Identification, Sergeant, how many copies were made of this statement?

A. There was either four or five.

Q. Is this a copy or is that the original? A. That looks like the original.

Q. Where are the copies, if you know? A. I suppose they are at the barracks.

Q. In the hands of the State Police? A. I believe so.

Q. This statement, who was it typed out by?

A. Detective O'Brien was typing it.

Q. Was this statement typed out—when was it typed out? A. It was typed out at the time that we were talking to Mr. Culombe.

Q. Tell us the manner in which it was done?

A. Well, Lieutenant Rome would ask him a question and then try to put it in a form as it was followed so that you could understand it when he got through.

Q. In other words, this isn't the statement of Arthur Culombe, is it? A. This is the story as told by Arthur Culombe.

Q. But not in the words of Arthur Culombe?

A. No.

Q. These are the words of Lieutenant Rome as taken down by Detective O'Brien? A. Yes.

Q. So it isn't the words or the language of Culombe, is it? A. No.

Q. Now, how long did it take to make this statement up? A. That particular one, or all of them?

Q. No, this particular one. This was the first one, wasn't it? A. No. That, I believe, is the last one.

Q. The New Britain one was the last one? A. Yes.

Q. Have you any idea how long it took to make this New Britain statement up?

A. I think about a half hour.

Q. Well, for the purposes of the record, this State's Exhibit Z, for Identification is a statement relating to the New Britain crimes that are charged in this indictment?

A. That's right, sir.

Q. Now, you told His Honor that at any time leading up to this confession, so-called, that it was free of force, promises, threats or putting in fear of Culombe, is that right? A. That's right, sir.

Q. Now, at the time that this statement was taken by Detective O'Brien or written down as given by Lieutenant Rome, who was in the room?

A. O'Brien, Lieutenant Rome, myself and Matus.

Q. Now, this statement, State's Exhibit Z, was given about what time at night? A. That was 12:30 a.m.

Q. After midnight? A. That's right.

Q. He had been under questioning how long that night? A. Well, he had been giving the statements most of the evening.

Q. Well, from shortly after supper, let's put it that way.

Q. I am a little confused as to what time we actually started. I know it was in the evening because it was dark when we got back.

Q. What time did you get back to the barracks, approximately? A. It was after supper. I believe we had

our supper out near Hymie Borden's place. It must have been somewhere around eight o'clock.

Q. About eight o'clock at night? So these statements dictated by Lieutenant Rome and signed, as you say, by Arthur Culombe, took about four and a half hours?

A. That's right.

Q. And there was Detective O'Brien there, Lieutenant Rome? Was Detective Murphy there?

A. No, I don't believe so.

Q. Was Mrs. Mercer, a policewoman, in the room at any time? Is that the name? A. Murtha.

Q. Murtha, was she in the room at any time?

A. No, I don't remember seeing her.

Q. Well, this evening affair started from the questioning that commenced in the afternoon, of Culombe, didn't it?

A. That's right, at 1:30.

Q. And as a matter of fact, Sergeant, when the phrase used by the State's Attorney in his question to you, at any time leading up to this confession, that phrase, as a matter of fact, covers all of the investigation from the time of the first questioning of Culombe, isn't that right? A. I don't quite understand your question.

Q. All of the questioning of Culombe, from the time that he was taken into custody was with the object in view of obtaining a confession if a confession was obtainable, that is true, isn't it? A. That is correct.

Q. So that necessarily would include all the questioning of Culombe, wouldn't it? The others weren't just merely friendly conversation about the weather, the ones on Monday night? A. No.

Q. Or Monday afternoon? They were all related to

this, weren't they? A. They were all related to all the crimes.

Q. When Culombe signed this piece of paper, State's Exhibit Z, it was after a period of questioning on and off for hours at a time from Saturday afternoon until after midnight on Wednesday, isn't that so?

A. We had talked to him from the time that we picked him up, off and on, until that time. Yes, sir.

Q. Now, Culombe was rather a sorry sight physically at the time that he signed this statement, wasn't he?

A. No. As a matter of fact he looked ten years younger.

Q. We won't talk about his youth or his age, though we may get around to it. Lieutenant Rome testified yesterday about Culombe being a sorry sight. Did you see him when he was a sorry sight?

A. As far as his clothing went I would say yes.

Q. Well, as far as his face went and the expression on it? A. He was tired, yes, sir.

Q. He was tired? He had been through quite an ordeal, hadn't he? A. That's true.

Q. He had cried at one time, hadn't he? A. He had sobbed.

Q. And when was that? Monday afternoon? A. No.

Q. When was it? A. Tuesday night, just before we went—before he was brought back to jail. I had gone down the cell with him and he had just been talking to his wife, and I started asking him a few questions and I saw that he wouldn't answer any, so I just stayed with him for a while and when I asked him questions he said he didn't want to talk about it, or didn't want to talk, and that was all.

Q. After the episode of Tuesday night involving his wife he had sobbed, hadn't he? He had. You said that?

A. Let's leave it that way.

Q. Well, how about the crying Monday afternoon? Didn't he cry Monday afternoon? A. No, sir.

Q. Didn't he ask to see Mr. Bill? A. No, sir.

Q. Didn't Mr. Matus later come over to the State Police barracks? Mr. Matus was sent for wasn't he?

A. No, sir.

Q. Didn't Mr. Matus come to the State Police barracks? A. Oh, he had been there off and on all the time.

Q. Did he remain there on Wednesday afternoon?

THE COURT: Wednesday.

Q. Wednesday afternoon or Wednesday night?

A. He was there Wednesday night.

Q. Was he there at the time that the confessions were signed? A. I believe so.

Q. Isn't it a fact that Culombe said he would not make any statement unless Mr. Bill was present? A. No, sir.

Q. And then didn't Lieutenant Rome leave the room and go downstairs and do some talking and come back and say that Mr. Bill could not be located, but they would send Mr. Matus over? A. No, sir.

Q. Wasn't there some talk on the part of Culombe that he wanted somebody from the State's Attorney's office there to see that he got a square deal? A. No, sir.

Q. Mr. Matus did arrive, didn't he? A. That's right.

Q. Didn't Culombe say to you men, after he found out that Mr. Bill could not be located, that he wanted Mr. Rear-

don, as Mr. Reardon was a square shooter and he would rely on anything that he did? A. No, that isn't true.

Q. He did not say that? A. No, not the way you—

Q. Did you contact Mr. Reardon? A. I didn't. No, sir.

Q. Do you know whether or not he was contacted?
A. No, I don't know.

Q. Mr. Reardon didn't come over there anyway, did he? A. No. Mr. Matus was there.

Q. Now, you, I think, and I know Lieutenant Rome, have only told us about one night that Mrs. Culombe was there and he said she was used. That was Tuesday night. She was there on another occasion than Tuesday night, wasn't she? A. She was there the day that you came to headquarters.

Q. That was after the so-called confessions were signed, when I came to headquarters?
A. That is right.

Q. That was after the goose was cooked, as you fellows would put it, when I came, wasn't it?

MR. BILL: Objection.

THE COURT: Well—

MR. McDONOUGH: I will withdraw it.

Q. I came long after these papers were signed, didn't I? A. That is true.

Q. After I was appointed by this Court?
A. That's right.

Q. After you had confessions and your work was over? A. That's right.

Q. And she was there on several occasions before that day, wasn't she? A. I don't remember seeing her.

Q. She was there, wasn't she, on Monday as well as Tuesday, is that so?

A. No. The only time that I remember seeing her there was Tuesday night.

Q. As a matter of fact hadn't she been brought back and fourth, and the daughter brought back and forth to State Police barracks for several days prior to Tuesday night? A. Not that I know of.

Q. Weren't you in the room at one time when a fourteen year old girl was brought into the room and used to talk to her father to induce a confession?

A. I saw his daughter there on Tuesday night.

Q. And she spoke to her father, didn't she?

A. She spoke to her father that night.

Q. What did she say to her father? A. I don't know.

Q. You were there? A. I was not there.

Q. The child was all upset, wasn't she? A. Not that I know of.

Q. Well, she wasn't perfectly composed, was she, Sergeant, a little child in police headquarters?

A. We had a policewoman sitting with her, entertainher, if I remember right.

Q. What was the entertainment? A. Sitting there talking to her.

Q. Why bring a child to the State Police barracks to to be entertained? A. I can't answer that.

Q. Who kicked Culombe in the side? A. I don't know.

Q. You were present, weren't you, Sergeant, when he was kicked by Lieutenant Rome? A. No, sir.

MR. BILL: Objection, Your Honor.

Q. Sergeant—

THE COURT: I will allow it.

Q. Do you recall being in a room with Lieutenant Rome and Culombe and possibly another detective, sitting in chairs, talking, Monday afternoon? A. Yes.

Q. You were? The four of you? Was Detective Murphy there? A. No.

Q. Who was there? Lieutenant Rome, Culombe and yourself? A. Yes.

Q. Anyone else? You were questioning Culombe, weren't you? A. That's right.

Q. Where was Lieutenant Rome sitting in relation to Culombe? A. He was sitting in front of him.

Q. And where were you sitting in relation to Culombe? A. Alongside of Lieutenant Rome.

Q. And didn't Lieutenant Rome, when he got another denial from Culombe, raise both his feet and drive them into the side of Culombe? A. No, sir.

Q. Didn't Culombe cry that afternoon? A. No, sir.

Q. Well, Culombe didn't sign any statement that afternoon, did he? A. Yes, he did.

Q. He did? On Monday afternoon?
A. That's right.

Q. Where are the statements? A. We have it over at State Police Headquarters.

Q. Confessions? A. In regards to a theft.

Q. In regards to a theft? What was the theft?
A. Of canned goods from his place of employment.

Q. There were canned goods found in his cellar, weren't there? A. They were found there in his possession.

Q. And he was questioned about that, wasn't he?
A. That's right.

Q. And you accused—or Lieutenant Rome in your presence, told Mrs. Culombe she could be arrested for having those stolen canned goods in the house, didn't he?
A. I didn't see Mrs. Culombe.

Q. Do you know whether or not she was told about the stolen canned goods in the house? A. No, I don't.

Q. You don't? When did he sign the statement about the canned goods? Monday?
A. I believe so.

Q. Mrs. Culombe was there on a Monday or a Sunday, wasn't she, and the day before?
A. I saw her on Tuesday evening and I saw her on Wednesday—went over to the house.

Q. Did you know about the canned goods being found in th cellar? A. Well, there were canned goods that were brought back to the barracks.

Q. Who brought them back? A. I don't remember what officer.

Q. Did you people get a doctor for Culombe?
A. Not that I know of.

Q. He needed a doctor, didn't he? A. No, sir.

Q. Did anyone shout out "Get a doctor for this man" —referring to Culombe? A. I never heard anybody.

Q. You never heard any such statement?
A. No, sir.

Q. Well, Culombe was crying and sobbing on one occasion? A. He was upset when I asked him a question and couldn't answer, so I shut up.

Q. Up until Wednesday afternoon, say until the middle of the afternoon, he said he wouldn't discuss the New Britain matter, didn't he? A. I hadn't talked to him about anything.

Q. Well, you began a conversation, didn't you, by talking about New Britain to him—you didn't want him to tell you any lies? A. That wasn't especially New Britain, that was on the entire case.

Q. And he told you he didn't want to talk? A. That isn't what happened at all.

Q. Didn't he say he didn't want to talk?
A. No, sir,

Q. What did he say? A. In answer to my request that he not lie anymore, he agreed, and I asked him in answer to my question, rather than make any lie, to answer —"I don't want to talk about it".

Q. And he did say that? A. Yes.

Q. And he did so a number of times? A. Yes, he sure did.

Q. He sure did. By that you mean a great many times? A. Everytime a crime was mentioned I said that to him.

Q. Didn't you hear him make any of the statements that Lieutenant Rome put in this statement? A. That was later that evening, but as far as an actual confession, when? When I asked him these questions, whether it was

Rosenthal or the Cohen, or whether he was in New Britain, and he said, "I don't want to talk about that", that was my answer.

Q. How long did he continue to say that? A. Well, I started talking to him at one-thirty and it was just a short while afterwards that I took this piece of paper with all the different crimes on it and asked him these questions. Murphy came in and repeated the same thing and we were out of the barracks by half past three that afternoon.

Q. Well, how long did he keep that up—saying he didn't want to talk about it? A. Everytime we would ask him a question and ask him if he was there and he would say he didn't want to talk about it.

Q. How long a period of time did that take to give that answer? A. What answer?

Q. "I don't want to talk about it"? A. Three quarters of an hour.

Q. And he had been doing that in addition to denying it for days up to that point, hadn't he? A. Well, that wasn't a denial, Mr. McDonough.

Q. Well, he said he had nothing to do with them, didn't he? A. No, he said rather than lie—he said "I don't want to talk about it", which was telling me that he was involved in the crimes.

Q. That was your conclusion? A That was the conclusion between us.

Q. He never said any such thing that you just said —that is a conclusion of yours—that is what you are assuming? A. That is what I knew.

Q. That is what you knew he was involved in—he didn't tell you he was involved in any of those crimes?

A. But I knew that was the answer without his actually saying yes.

Q. Isn't that an assumption you drew? A. That was the knowledge I received from his acts.

Q. That is what you drew? A. Yes.

Q. Did he say that he shot or was with a man who shot somebody in New Britain? Did he say that to you Wednesday afternoon? A. Yes.

Q. Tell us his exact words. A. It was during the time we were riding from the State Police barracks—

Q. Let us stay in the barracks—it's February—it's cold outside. Tell us what he said to you in the barracks. A. He didn't say that in the barracks.

Q. Tell us what he said. A. Your Honor, it is hard for me to answer that question covering the whole period.

Q. Just about New Britain. A. When I asked him —Your Honor, can I refer to this note I have here?

THE COURT: Is it because you don't have a recollection?

THE WITNESS: No, this is exactly what I wrote out.

THE COURT: I don't know. Do you have any objection?

MR. McDONOUGH: If he states he doesn't recall and needs to use it.

THE COURT: He didn't say that so perhaps we had better not use it.

Q. What did he say to you on Wednesday afternoon, February 27th about the New Britain crime while you were in the office at the barracks? A. I read this paper and on this paper it says, "December 15, 1956, approximately

6:05 P.M., Kurp's gas station in New Britain". I don't know Janowski's first name or Kurpiewski's—"was shot and killed". And then I said to him, "Arthur, were you there?"

Q. What did he say? A. He said, "I don't want to talk about it".

Q. What else did he say? A. That is all he said as far as the confession is concerned.

Q. That is all he said about New Britain in the barracks or headquarters on Wednesday afternoon. That takes care of the barracks, does it? A. No, sir.

Q. About the New Britain crime? A. You will have to give me time to think exactly what did happen.

THE COURT: All right, take your time.

THE WITNESS: No, before we left there he said we were looking for two guns, and I believe at that time he said two of these guns were the ones used in New Britain.

Q. Are these his exact words? A. No, I can't quote his exact words.

Q. Didn't he say something about two guns and two men that you had? A. Oh, yes, we were talking about all the crimes, not just New Britain.

Q. When did he say something about the guns in New Britain—what time was that? A. I think that was just before we left.

Q. Then he was talking about New Britain, wasn't he? A. I think at that time he said—there was one gun used in Hartford County and one gun used in New Haven County.

Q We are talking about New Britain. A. Well, I am trying to think.

Q. Don't think out loud. It might be inadmissible what you are thinking. A. I don't remember what else he said about New Britain.

Q. Did you know what led up to that remark you just told us about New Britain—had you asked him something? A. I just don't follow your question.

Q. Well, did he make that answer in reply to anything that was said to him? A. I don't understand the statement you are referring to, Mr. McDonough.

Q. Will you repeat what he said about the guns in New Britain at the barracks? A. About the New Britain guns?

Q. Yes, while you were at the barracks before you left the barracks. A. I don't remember whether he said it in the barracks or on the way over—those are the two guns we found on Dexter Street.

Q. Then you could be wrong? A. I could be wrong as to when he told us that.

Q. That is what I want to get at. We can leave the barracks later, but the only thing is—he made no statement about New Britain. He was still at the point where he said he did not care to talk about it? A. Oh, no. He had agreed to show us the guns at that time.

Q. When did he agree to show you the guns?
A. Before we left the barracks.

Q. When before you left the barracks? A. Maybe four or five minutes before.

Q. All right, we are getting up to four or five minutes before you left. Tell us his exact words. A. I don't remember his exact words.

Q. You can't tell us as to his exact words?
A. No, sir.

Q. You are just telling us that you had some information you thought you had gained—that is what it amounts to—you didn't get any statement from him, written or verbal, before you left the barracks? A. Yes, he said he was going to show us a gun used in Hartford County and in New Haven County and he said the gun would be at his house.

Q. And that is all he said—that completed his statement? A. I believe so. We were talking mainly about where the guns were at the barracks.

Q. Now, tell His Honor what induced him to make that statement? A. Well, he had told me we would find the guns under water. He said that we were looking for two men when Murphy asked him if he was in fear of Taborsky.

MR. BURKE: I am going to object to this.

THE COURT: I don't see why, it doesn't involve Taborsky's case.

MR. BURKE: He says he was placed in fear of Taborsky.

THE COURT: This is on a question of the preliminary hearing on the question of whether or not this confession, so-called, will be admitted and if it is to be admitted at all it will be admitted in the Culombe case, and none of the evidence here will come into the Taborsky case before the jury. I don't see where you have any standing to make an objection in this matter.

MR. BURKE: May I enter the objection on the basis of the case of State against Castilli, in the 92nd Conn., and the statement I am talking about—"Statements made by one or another party involved are not admitted against the other party, and the jury was instructed not to consider it as against the other."

THE COURT: There's no question about that. This isn't before the jury. It is on the question of whether or not the Court will admit or reject an alleged confession in the case of State agianst Culombe. You may note the objection, but I don't think you have any standing on it.

MR. BURKE: May I have an exception?

THE COURT: You certainly may.

MR. McDONOUGH: May I have the last question?

(The reporter read the last question.)

A. He said he was in fear of Taborsky who had threatened to kill him if he talked, and then I asked him again to help us locate the guns and clean up the whole thing, and I had stated to him if we found the guns it would save us a lot of work if he would tell us where they were or it was.

Q. Up to that time he had refused to save you any work or anything at all, he hadn't cooperated, had he?

A. He was cooperating.

Q. From what time on? A. From the time I first started talking to him.

Q. When was that? A. When we sat down at one-thirty.

Q. On Wednesday afternoon? A. That's right.

Q. But up until that time he hadn't cooperated?

A. Not as far as these killings went.

Q. Do you know what induced him to cooperate, as you call it, all of a sudden when for days he hadn't done it?

A. I think he was tired of lying about it anymore so that he was ready to get it out of his system.

Q. Those are your thoughts—that is what you think. Can you tell us about any statement or act by anyone that you know of that induced him to? A. No, sir.

Q. You don't know whether or not he had been worn down by the proposition of having his wife in and out of State Police quarters and having a witness in there as far as she was concerned, do you? A. No, sir.

Q. You don't know whether or not it was because of the fact that an attorney he had asked for—any attorney—had been declined to him and that he was still held in custody and subjected to questioning—that that induced him to cooperate, as you call it?

MR. BILL: Objection.

THE COURT: I will have to sustain that.

Q. Don't you believe now that you are talking about what is belief and thinking? You think, you said, because he got tired of lying. I will ask you if you don't think he got pretty well discouraged being held without counsel or friends in your Police Station for five days induced that as well as your own thinking? A. No, sir, I don't think that.

Q. You think he was quite happy over the treatment he was getting over there? A. Well, I treated him, to use his own words, like a father.

Q. You treated him like a father? Why didn't you get a lawyer for him when you knew he wanted a lawyer?
A. I didn't know that.

Q. You didn't know that? A. He didn't ask me for a lawyer.

Q. You heard Lieutenant Rome mention that he asked for a lawyer Saturday night? A. He may have asked him but he never asked me.

Q. He asked for a lawyer the day he was brought to New Britain, didn't he—you know that, don't you?
A. Which day?

Q. The Tuesday morning he was brought to New New Britain, and before then? A. No, I didn't, I wasn't there.

Q. You were treating him like a father—why didn't you take care of him to get a lawyer to take care of his constitutional rights? A. I didn't say I was treating him like a father—I said he said that.

Q. Do you know any reason why he should have considered that you treated him like a father? A. Only that I treated him with kindness.

Q. So your treatment was so exceptional as compared to that of the others? A. I don't think so.

Q. Didn't he feel the same way toward every one of the Officers? A. All I know is that he made that remark.

Q. You didn't ask him if he wanted a lawyer?
A. No, sir.

Q. You are sure, Sergeant, that Lieutenant Rome said that this fellow wants a lawyer, but let him wait?
A. I didn't say that.

Q. You are sure—you were in the room—that he didn't say he wanted the State's Attorney of this County, Mr. Bill? That is important. A. He said that he wanted Mr. Bill to see his statement.

Q. Well, he didn't mention wanting to see Mr. Bill?
A. That isn't what you asked me before.

Q. He did mention Mr. Bill? A. He said he wanted Mr. Bill to see his statement.

Q. He said he wouldn't give a statement until Mr. Bill was present there, didn't he? A. He did not.

Q. You and Lieutenant Rome—and I won't go into what Lieutenant Rome said—but you had no intention of

getting Mr. Bill over there to get a statement or to observe what you were doing? A. That is not what was asked for.

Q. Isn't it a fact that you didn't want the State's Attorney of Hartford County, Mr. Bill—you didn't want him to know what was going on over at the barracks while you were questioning Culombe? A. No, sir, that never was in my mind. There was nothing we were ashamed of.

THE COURT: Well, never mind. Start another question.

Q. Coming to the fact—what you should be ashamed of. When did you first make a report that got into the hands of the State's Attorney of this County, Mr. Bill? A. A written report? I wrote my report when the case was finished.

Q. Here is a murder investigation—and an atrocious murder—the public is aroused about it? A. Yes.

Q. You have a man across the street from the State's Attorney's office without the benefit of counsel, without being arraigned in court, that was demanding a lawyer, and you didn't consult the State's Attorney, did you?

MR. BILL: Objected to.

THE COURT: Sustain the objection. I don't see the purpose of it.

MR. McDONOUGH: The purpose is to go along and bear out what we are endeavoring to prove. We will do it through testimony that this confession was beaten and brow beaten out of them and that the State's Attorney didn't know what was going on or it never would have happened.

THE COURT: You know that the way to prove it is by evidence, and the mere fact the jury isn't here shouldn't make the procedure any different.

MR. McDONOUGH: I know the jury isn't here and that is why I want to make these statements to Your Honor.

THE COURT: I don't see the point of it. It isn't in the evidence and it hasn't been established and I won't consider it.

MR. McDONOUGH: May I call your Honor's attention —the purpose of my attitude now is because I claim it is being borne out now in the examination of this witness as it was borne out on his testimony before the jury—that things have to be dragged out of him. I claim I have the right to try to elicit from him that demand was made for Mr. Bill. I will show evidence of that. If I can show Your Honor that this witness is not telling you the facts, then it might have influence on Your Honor in admitting the confession.

THE COURT: I will note what you have said so far, but I don't see how the Court is going to be helped by any of this. There is no evidence on it in court.

Q. How many times was Mr. Bill's name mentioned during the interrogation of Mr. Culombe in obtaining the so-called confession? A. That was the only time it was mentioned.

Q. Culombe mentioned it. Who did he address the remarks to?

A. I think we were all in the room at that time.

Q. And he said he wanted Mr. Bill to see the statement? A. When he made it.

Q. And when did he say that? A. I don't remember whether it was before we left the barracks that time or before he gave me the statement.

Q. It is important. I will give you a little more time to think. A. I think it was before he gave it.

Q. How long before? A. I can't answer that. I'm a little confused.

THE COURT: Only give your best recollection, Sergeant.

A. I don't remember whether it was just before we left for New Britain or when we came back. The more I think of it, I think he said he wanted Mr. Bill to know what he was doing.

Q. That's fine. We'll go on from there. He wanted Mr. Bill to know what he was doing, Sergeant. What was said in answer to that request, he wanted Mr. Bill to know what he was doing, if anything?

A. I think he was told that Mr. Bill would be told about it or be shown the statement. I'm not sure which.

Q. But he said he wanted Mr. Bill to know what he was doing. Did you or anyone that heard that request convey that message to Mr. Bill? A. I didn't.

Q You did not? Did you make any attempt to?

A. No, sir.

Q. But you know he made that request? Now, was that statement taken—marked State's Exhibit Z for identification—after that request was complied with by letting Mr. Bill know? A. I don't understand your question.

Q. Culombe made it a condition through that request, of the statement that he would sign, that he wanted Mr. Bill to know what he was doing. Now, that's a condition he attached, isn't it? A. No, sir; that wasn't a condition.

Q. This State's Exhibit Z for identification was taken without complying with that request, isn't that so? "Yes" or "No"? A. I think in answer—

Q. I don't want any thinking.

THE COURT: All right, if you can't give a "Yes" or

"No" answer, say you can't. A. I can't.

Q. You can't give a "Yes" or "No" answer? Do you know whether this statement that I hold in my hand, marked State's Exhibit Z for identification, do you know when it was first shown to Mr. Bill? A. No, I don't.

Q. How long did that statement remain in the State Police barracks after it was signed by Culombe?

A. I don't know.

Q. Who had charge of it? A. Lieutenant Rome.

Q. But there's no question in your mind, Sergeant—and I want this definite for the record—that before he signed this statement, or before he talked, from which the statement was made, he said he wanted Mr. Bill to know of that statement, is that true? A. Would you repeat that, so I can get it?

THE COURT: Read it, please, Mr. Burke.

(Last question read by reporter.)

A. It was not a condition that he gave us. It was a request that he made.

Q. That's what I'm saying. A. That's right. That's right.

Q. That's the request he made? A. You are absolutely right.

Q. Whether you regard it a condition or not, it was a request? A. That's right.

Q. There's no doubt about it? A. You're right.

Q. And that was after he came back from New Britain or before he left for New Britain, or Coleman Drive?

A. Now you've got me. I don't remember. I am under the impression it was afterwards, because—

Q. How long a period of time was consumed between his leaving the barracks, his coming back for supper, and the beginning of the interrogation? An hour? Two hours?

A. It must have been three or four hours.

Q. Three or four hours? What time did you leave for New Britain? A. We didn't go to New Britain.

Q. Well, Coleman Drive? A. I believe it was three-thirty; somewheres around that

Q. Three-thirty? In that neighborhood? A. That's right.

Q. And you began to take the statement about eight o'clock; right? A. I believe it was around there.

Q. Has this statement been altered since it was signed by Culombe—what is referred to in the statement? Has there been any change in this since the signature of Arthur Culombe was placed on it? A. I don't know.

Q. The statement that he— You don't know?

A. No, I don't know. I hvaen't even read that statement.

Q. You have seen this statement? A. I was shown some paper with the date and time on there, and the case.

Q. You identified it. Is this the statement that was taken— A. That's his signature on there. I didn't read the whole statement.

Q. Well, suppose you read it? A. Thank you.

THE COURT: Have you finished?

THE WITNESS: Yes, Your Honor.

Q. Is that the statement, Sergeant Paige?

A. That's right, sir.

Q. And is that the statement that you saw typed out?
A. That's right, sir.

Q. You saw it being typed? A. That's right.

Q. And who was typing it? A. Detective O'Brien.

Q. Did you see it signed? A. Yes, sir.

Q. Was it signed just in the shape it is in now?
A. To the best of my knowledge, yes.

Q. It was a typewritten statement? A. That's right.

The only writing on it was on the back page, "Arthur Culombe", "Sam Rome", "Vincent J. O'Brien"?

A That's right.

Q. Sure about that? A. And the "A.C." at the bottom.

Q. That is, the initialing of each page? A. That's right.

Q. Otherwise this was a typewritten statement wasn't it? A. There is some writing on there; the date there. "February 28th".

Q. Is that changed? It was changed, wasn't it?
A. Yes, I think it was changed afterwards when we realized it was after midnight.

Q. It was changed after it was signed, wasn't it?
A. I don't think so.

Q. Well, now, this isn't even being held in front of you now. Yo ucan't see this change, can you, in the date?
A. I saw it when I was—

Q. But you noticed it then? Please tell us when that was changed. A. I don't know. I didn't change it.

Q. You can't say that it was in that condition when Culombe signed it, can you? A. That I don't remember.

Q. You don't know? You remember, Sergeant, that they did make a mistake in the date—you testified to that—and they changed it later? A. I didn't say that.

Q. That's in your mind. How much later?

A. I didn't say that. I said that has been written over.

Q. That has been written over? When was it written over? A. I don't know whether it was done then or done afterwards. I don't remember that.

Q. Then, Sergeant, you don't know whether this exhibit for identification is in the condition that it was in when it was signed by Culombe, do you? A. To the best of my knowledge it is.

Q. With the exception of that writing in of the date that appears as a "28", written in ink over the typewritten "27"? A. That's right.

Q. And when that was done, you don't know, do you?

A. I don't remember whether it was done or not. There was a lot of statements being signed then.

MR. McDONOUGH: Will the State's Attorney produce, this afternoon, all of the copies that were made of this original?

MR. BILL: I'll endeavor to.

MR. McDONOUGH: Tnank you.

Q. Now, who took the statement from Culombe about the canned goods? A. I don't remember what officer was assigned to.

Q. You didn't, anyway, Sergeant? A. No. Somebody was assigned to it.

Q. Were you there? A. No. I saw the statement afterwards, but I wasn't there when it was taken.

Q. State's Exhibit Z for identification was taken approximately—Well, it was taken in the early hours of the morning, was it? A. 12:30 A.M.

Q. Culombe had been going through a questioning period for the fifth night as well as five days before his signature was placed on there; that's correct, isn't it?

A. We had had him in custody during that time.

Q. He had been going through questioning all that night, hadn't he, and all that afternoon on the 27th?

A. That's right.

Q. Until the early morning hours of the 28th of February? A. That's correct.

Q. And he looked relieved, you say, when he signed it? A. After he started talking he looked ten years younger.

Q. And he looked as though he could get a good night's sleep and not be bothered at all, isn't that right?

A. Yes, I imagine his conscience was beginning to clear up a little.

Q. And he also could be free of worry from any abuse in headquarters? A. He never was abused.

Q. He never was? A. No, sir.

Q. What other rooms besides—What room was this paper signed in—these papers? A. That was in what I call the interrogation room.

Q. That's the little room you talked about yesterday, adjoining Lieutenant Rome's office? A. That's right.

Q. How many rooms were used in questioning him

altogether, over there? A. I don't know. When I spoke to him Wednesday afternoon I used that same room.

Q. He was treated rather roughly on Monday, wasn't he, before he signed this statement? A. No, sir.

Q. Did you talk to him Monday? A. I spoke to him Monday.

How long did you talk to him Monday? A. Just a short while.

Q. How long? A. Oh, maybe a half hour, or an hour.

Q. He didn't go out for any rides on Monday, did he? A. Not that I know of.

Q. He didn't go out for any rides on Tuesday, except to be presented in the New Britain Police Court for breach of the peace, did he? A. Yes.

Q. Where did he go? A. He went ot the county jail that night.

Q. Outside of the county jail and New Britain Police Court he did not go for any rides on Tuesday?
A. No, sir.

Q. Didn't you question him Tuesday? A. Mr. McDonough, you are using the word "continuous".

Q. I'm asking you another question. Did you question him Tuesday? A. No, sir.

Q. Or Tuesday night? A. Tuesday evening.

Q. Did you know that anyone else questioned him Tuesday ? A. I know that Lieutenant Rome had spoken to him and to Mrs. Culombe that evening.

Q. How late did you question Culombe on Tuesday?
A. I didn't question him. I sat there with him in the cell until he was brought up to the county jail.

Q. Oh, you sat in his cell? A. That's right.

Q. What were you doing in his cell? A. Sitting there with him.

Q. What were you doing? Just sitting there with him? You didnt like his company so much, did you, that you sat with him? What were you sitting with him in his cell for? A. I started to ask him some questions.

Q. Then you were questioning him in his cell, weren't you? A. All right; put it that way.

Q. Then he was questioned in more places than the interrogation room and Lieutenant Rome's office and Captain Schwartz's office? Now it appears he was questioned in a cell. That's correct, isn't it? A. The word questioned" isn't proper sa far as Tuesday night goes.

Q. Now he was questioned in a cell, isn't that correct?
A. I can't give a "Yes" or "No" answer to that, because you won't let me explain.

Q. Well, may I have an answer to the question?

THE COURT: He says he can't answer it "Yes" or "No".

MR. McDONOUGH: I didn't ask him for "Yes" or "No".

THE COURT: Answer the question.

A. I went downstairs and started to talk to him and he didn't want to talk, so I just sat there a short while with him until they came and took him over to the jail.

Q. That was what night? A. Tuesday night.

Q. What time did you go to the cell to talk to him?
A. I think it was, Oh, half past seven, quarter of eight.

Q. What time did they take him to the county jail?
A. About eight.

Q. So you sat in the cell with him for a half an hour?
A. I didnt think it was as long as that.

Q. Say twenty minutes? A. Maybe; yes.

Q. You wanted to talk to him? You did talk to him, didn't you? A. I started to.

Q. What did you talk to him about? A. I don't remember exactly what it was. I asked him a couple of questions and he said he didnt want to talk, so I just sat there with him.

Q. Well, what did you ask him about? A. I don't really remember myself, Mr. McDonough.

Q How many times was he questioned while in a cell? A. Well, the day he gave the second confession he was in a ecll.

Q. Sergeant, this happens—This occasion right now happens to be the first time we've heard about him being questioned in a cell. He has been questioned twice in a cell, hasn't he? We didn't know about that. He's been questioned twice in a cell, hasn't he?
A. At the time of the second confession he called the officer that was there and told him he wanted to talk to us.

Q. But was he questioned any other time in a cell?
A. I didn't question him in the cell. I sat there with him, asked him a couple of questions, and he said he didn't want to talk, so I sat there for a while.

Q. He had a visitor in the cell—we'll put it that way—and you were the visitor? A. That's right.

Q. And it wasn't a social visit? A. It was a business—

Q. It was a professional police visit; that's right, isn't it? A. That's right.

Q. Now, he had gone through that in addition to the questioning in the room. You came into his cell and he wouldn't answer you, would he? A. He said he didn't want to talk.

Q. And he didn't talk, did he? A. No.

Q. That was Tuesday night, wasn't it? A. That's right.

Q. And Wednesday afternoon when you were up in the room with several other policemen and one woman, the following afternoon, is the afternoon that he signed these pieces of paper? A. That's right.

Q. After your visit to his cell; that's right, isn't it?
A. Yes.

Q. Now tell us what happened in the cell.
A. Nothing.

Q. Nothing? Why did you spend twenty minutes there with him? A. I went in there, asked him a couple of questions, and he didn't feel like talking.

Q. What did you ask him? A. I don't remember exactly what I asked him.

MR. BILL: May I find out when this was, Your Honor?

MR. McDONOUGH: Tuesday night.

THE COURT: Tuesday night.

Q. You don't remember? A. No, sir.

Q. Then he was taken up to the jail? A. That's right.

Q. Why was he taken to the jail? A. He was supposed to go there.

Q. And he was brought back to State Police Headquarters Wednesday? A. Wednesday morning.

Q. What time was he brought down to police headquarters? A. About nine-thirty.

Q. Now, you said he was supposed to go to the jail. Why? Because of the mittimus from the New Britain Police Court? Is that the reason? A. I believe so.

Q. Up until that time there had been no mittimus from any Court? A. I believe you are right.

Q. Did you bring him to the jail Wednesday night after the papers were signed? A. No. He stayed at the barracks.

Q. Even though there was a mittimus committing him to the county jail, he stayed at the barracks; that's right, isn't it? A. At his own request.

Q. And the following day he was brought into this Court before Judge Bordon? A. That's right.

Q. Now, was Culombe prespiring when he finished this questioning period of several hours on Wednesday night when he finally signed four pieces of paper—I think theres four here. State's Exhibit Z, anyway. Was he perspiring? A. Not that I remember.

Q. He was tired, wasn't he? A. Yes, he was.

Q. He was physically and mentally tired, wasn't he? A. He was tired. We were all tired.

Q. Was Mr. Matus there when this confession was signed—so-called confession? A. I believe he was present.

Q. Now, is everything in this confession in the words of Lieutenant Rome? You say that he gathered things and put them together in his own words. These are Lieutenant Rome's words? A. That's right.

Q They are not the words of Culombe. There's no question about that at all, is there?

THE COURT: That's the etstimony, Mr. McDonough.

MR. McDONOUGH: I beg pardon?

THE COURT: That's the testimony.

MR. McDONOUGH: Yes. That's preliminary.

Q. But it is all built on statements made by Culombe? That's right.

Q. And was there anything that Culombe said while the statement was being made that is not incorporated in this statement made by Lieutenant Rome? A. Not that I know of.

Q. You don't have to look at it—you know. You have read it once? A. I know pretty well what is in there.

Q. You can safely say there is nothing said by Culombe that was not put in this statement and there is nothing left out? A. Not that I know of.

Q. You mean there might be but you don't know? A. Well, there was questions asked and Culombe answered them and it was put in writing and it was read back to him and he signed it.

Q. Is there anything in this statement about Culombe being a mental case—being in a mental institution in Bridgewater, Mass., a state hospital? A. No, sir.

Q. Culombe told you people that night, didn't he? A. He told me he was in a feeble-minded institution.

Q. He told your friends that night—Lieutenant Rome and Detective Matus. As a matter of fact, the testimony of Lieutenant Rome referred to it. The first he knew of it was when this statement was being taken. That is so,

isn't it? A. I don't know the name of the place. It was a feeble-minded institution.

Q. The Bridgewater State Hospital. Do you remember Lieutenant Rome testifying on that? A. Yes, I do.

Q. He testified to that at the time he gave that statement. Is that noted in State's Exhibit Z for identification?
A. No.

Q. I will go further. He also said that he was confined for a long period of time in the Wrentham Mental Hospital for Boys, didn't he,—in Massachusetts?
A. I don't remember that.

Q. Well, it isn't in the statement? A. There is no such thing in the statement, no.

Q. There is no reference to what he told you about Bridgewater that you do remember, and there is no reference to Wrentham which you don't recall he said in that statement, is there? A. I don't k[redacted]f he told us that during the time the statement was take[redacted]

Q. It was testified to by Lieutenant Rome, wasn't it, and it is in the transcript, that the first he knew of Culombe being in a mental hospital was when the statement was being taken?

MR. BILL: Objection.

THE COURT: I will sustain the objection. That is not my recollection.

MR. McDONOUGH: Exception.

THE COURT: Surely.

Q. But he did make such a statement about the Bridgewater State Hospital — never mind the Wrentham School.

MR. BILL: Objection.

THE COURT: What is the purpose?

MR. McDONOUGH: To show that all the statement is not incorporated and reduced to writing.

THE COURT: Unless you show that it might not have been incorporated in these other statements, it isn't going to make any great difference to me. Read the qustion, Mr. MacGlashan.

(Th Reporter read the question.)

THE COURT: I will allow it.

A. I didn't hear anything about it that night. I had been told by Culombe about it before.

Q. Sergeant, I understood you to say a few minutes ago he did mention the Bridgewater State Hospital that night. A. He might have made it before that statement was taken.

Q. You knew he was in a mental hospital? A. I knew he had been in a feeble-minded institution.

Q. You knew it at the time the statement was taken and offered in evidence? A. Yes.

Q. And you knew he was mentally ill and had been treated for such illness. You knew that, didn't you?
A. Not the way you put it, Mr. McDonough.

Q. Did Culombe tell you about the Wrentham State Hospital and Lieutenant Rome instructed it wasn't to be put in the statement? A. No.

Q. That is not the case? A. No, sir.

Q. You say it doesn't appear in this statement that he was in a state mental hospital? A. No, it doesn't.

Q. How long did it take to discuss the New Britain matter? A. To get it down on paper?

Q. Well, to talk to him and write it up.

A. Well, we had the matter about the New Britain affair before we came back to the barracks, and it was just a matter of taking it down in statement form.

Q. How long did that take? A. I think it took about half an hour.

Q. Is everything that was said in that half hour incorporated in that statement—said by Culombe?

A. The facts were incorporated in there.

Q. Never mind facts—everything said about the New Britain matter—facts or not—is it incorporated in that statement? A. To the best of my knowledge, it is.

Q. Prior to the typewritten statements being taken—among one is State's Exhibit Z for identification—during all the five day interrogation, had any notes been taken or made by you of your conversation with Culombe?

A. No, sir.

Q. Had any notes been made by anyone else of your conversations with Culombe? A. Not that I know of.

Q. When was the first time during these five days of interrogation was it that notes were made of conversations with Culombe? A. I don't know what the other officers did.

Q. Just so far as you know? A. I didn't make any notes.

Q. By anyone else. Did anyone else make notes of his conversations or of your conversations with Culombe?

A. Not that I know of.

Q. Now, before Culombe signed this statement, had you or another police officer done anything to induce in Culombe the fear of Taborsky? A. No, sir, he had that fear himself.

Q. You didn't encourage it, did you? A. No, sir.

Q. Or none of the other officers did? A. No, sir.

Q. Well, isn't it a fact, Sergeant, that he was offered the hospitality of the State Police headquarters instead of the County Jail after these statements were signed? Wasn't he offered that as a protection from Taborsky?

A. At his request.

Q. At least he thought as far as the County Jail was concerned that he would rather be at the barracks because of his fear of Taborsky? A. He either wanted to go down to the New Haven County Jail or stay at the barracks.

Q. Wasn't that the status of the case and his feeling until I came into the picture? A. That he was afraid of Taborsky, yes.

Q. And you encouraged him to be afraid of Taborsky?

A. I encouraged him?

Q. Yes. A. He didn't need any encouragement.

Q. I didn't ask you that. I asked, did you encourage him? A. No, sir.

Q. Did you hear anyone else in the State Police Department encourage him? A. I don't quite understand your question. You mean did anybody tell him Taborsky would get him? A. No.

THE COURT: I think we should stop here and take up another matter. Sheriff, do you have a report to make to the Court?

Mrs. Culombe, would you step forward, please? You can stand right there. The Court issued a capias to bring you here this afternoon. Now, unfortunately, you are not reached in the order of the testimony. If I let you go until Tuesday morning, will you be here at ten o'clock.

MRS. CULOMBE: Yes, sir.

THE COURT: The accused may be escorted from the courtroom.

Mr. McDonough, the lady said she would be here Tuesday morning at ten o'clock.

MR. McDONOUGH: That's all right with me.

THE COURT: You may adjourn court, Sheriff, until Tuesday morning at ten o'clock.

(Adjournment at 4:00 P.M.)

JUNE 11th, 1957 10:10 A. M.

THE COURT: Could I see counsel at the desk?

(Conference between the Court and counsel)

THE COURT: Call the jury, Sheriff, and may I have the alternates?

(Jury and alternates present)

THE COURT: Good morning ladies and gentlemen. Now, it was indicated to me that the matter before me in connection with this case will take all day, and counsel have agreed with the Court that it would be for your convenience and would in no way affect the course of this trial whatever if I were to excuse you until tomorrow morning. I do it a little bit reluctantly but I feel, and everyone concurs with me, that we are not losing any time by doing this, so that rather than have you waiting around all day I think that I will excuse you until tomorrow morning, but I will have to give you the usual admonition that you are not to talk with anyone about this case or allow anyone to talk with you about it, and you will not read anything about this case in the newspapers, nor will you pay any attention to anything that

may be said or radio, or look at anything that may be on television in connection with this case.

And there is the admonition I have given some of you in the past and I want to give it again. I don't want you around this court until tomorrow morning. I am not forbidding anybody who might have legitimate business, but when I excuse you I excuse you not only from here, but from the courthouse and then report back here tomorrow morning at ten o'clock and perhaps we will be ready to continue with the trial before you. The trial continues before me. You may now be excused.

(Jury and alternates excused)

THE COURT: Now, Sheriff, may I have the accused?

(Accused present)

THE COURT: Are you ready to proceed, gentlemen?

MR. BILL: Yes, Your Honor.

MR. McDONOUGH: Yes, Your Honor.

MR. BILL: At this time I would like to make a statement, and it is to this effect, that since the close of Court last Friday it was brought to my attention for the first time that when Culombe made his original statement involving the New Britain affair it had been combined with a statement involving another crime which preceded it that same evening; that at a later date this original statement had been broken down into two parts by the State Police, one covering all the facts in this New Britain case, and one covering the facts contained in the other incident; that State's Exhibit Z, for identification is the statement of the New Britain affair that was drafted later from the original statement which was signed at a later date by Culombe; that at this time I request permission from the Court to offer evidence concerning the original

statement to show the breakdown, to show the events concerning the breakdown of the two separate crimes from the original statement and their subsequent execution, to establish that State's Exhibit Z, for identification is a part of of the breakdown and part reproduction of the original statement, and I wish to put in all the evidence to explain this situation.

I would either like the privelege of putting this evidence on now, or on redirect after Mr. McDonough finishes his cross-examination.

MR. McDONOUGH: May I ask Your Honor whether or not the State desires to have introduced the matters contained in the original statement, especially those matters which refer to another alleged crime?

THE COURT: Mr. Bill can answer that.

MR. BILL: My answer to that is, Your Honor, that in order to show this thing as it occurred - and, of course, I didn't know about the original statement because when the state police broke it down they thought that was it, they were doing something that ought to be done - we can do either one of two things. If Mr. McDonough objects to this later statement which is a reproduction as he can see when I show him the statement of the New Britain incident all alone, that could be better handled that way, or else if he objects to that I will offer the original statement containing the other case in it and then ask permission to have a part of the other incident cut out of it. That's what this Exhibit Z does.

THE COURT: Of course, it would strike the Court that it might be very well if Mr. McDonough was allowed to examine both papers before he took a position on it.

MR. BILL: I will allow him to.

MR. McDONOUGH: I would, Your Honor.

THE COURT: Mr. Burke, you are not interested in this part of it?

MR. BURKE: Only, Your Honor, if it has any reference at all to my client.

THE COURT: Can you do it here, Mr. McDonough, or would you prefer a recess?

MR. McDONOUGH: Probably during the recess. This is nothing that has to be decided right now. We have gone along with the examination and I think that the purpose of the examination both by the State and defense affects the manner of the taking of the statement, not the statement itself. So it can be done later.

MR. BILL: The only difficulty is, as I remember it, when we closed Sergeant Paige was on the witness stand,

THE COURT: That's right.

MR. BILL: If Mr. McDonough should continue his examination on State's Exhibit Z, all he knows about State's Exhibit Z is, and he said he didn't witness it, is that the story that is told there is the story told by Culombe, and now he finds out that the one that he did sign is here and this is a reproduction of it. That is why he recognizes this story in Exhibit Z.

THE COURT: As I understand it, Exhibit Z, for identification is an accurate reproduction of the relevant facts of the original statement?

MR. BILL: That is correct, Your Honor.

MR. McDONOUGH: I don't see why we don't just stick to that.

THE COURT: The only thing that I had in mind, it is for you, and I do not know whether or not you felt

that you could proceed or you want the opportunity to examine it. As far as the Court is concerned either procedure is satisfactory.

MR. McDONOUGH: Suppose we decide later during the course of the day, Your Honor. I don't think that it is necessary to decide it now.

THE COURT: And if we come to a place where it becomes apparent a decision should be made, we can make it at that time.

MR. BILL: If we are going to use this Exhibit Z, then I want an opportunity to prove how Exhibit Z was brought about.

THE COURT: On redirect I suppose with the statement already disclosed we can proceed.

MR. McDONOUGH: It can be done without disclosing what the original statement contained, that it contained other matters which are not here and are not relevant or material to this case.

THE COURT: I should think so.

MR. McDONOUGH: The record would show that.

THE COURT: I should think so.

MR. BILL: The harm isn't done to introduce it before Your Honor with that other matter in it. It would have to be put in shape to present to the jury, but for the purpose of having Your Honor see, if necessary, that the original of this Exhibit Z, which is a reproduction, there is no harm done if Your Honor has that before you.

THE COURT: I think that we understand the situation and Mr. McDonough is willing to proceed. I think that we can do it. If we come to an impasse we can meet it.

MR. McDONOUGH: Yes.

THE COURT: All right. Sergeant Paige.

SERGEANT DONALD PAIGE, recalled:

MR. McDONOUGH: May I have a moment to confer with Mr. Burke, Your Honor?

THE COURT: Surely.

CONTINUED CROSS EXAMINATION BY MR. McDONOUGH:

Q. May I have the last question and answer read?

THE COURT: Would you read it?

MR. MacGLASHAN: It is in the transcript.

Q. Just before the final questioning, Sergeant Paige, —on page 594 of the transcript and 593 you were asked this question.

"Q. Now, before Culombe signed this statement, had you or another Police Officer done anything to induce in Culombe the fear of Taborsky? A. No, sir, he had that fear himself."

We will back up into that neighborhood now

MR. BILL: I want it made clear that we are talking about the statement that is there.

MR. McDONOUGH: The original.

MR. BILL: He doesn't know when State's Exhibit Z was signed. We are talking about the other statement which contained his original—the original incident—which is not in evidence. He wasn't present when the other one was signed and he doesn't know about it.

THE COURT: I think you can take care of that.

Q. I will put it this way: At the time these statements which was taken which contained the reference as to the New Britain murder— A. Yes, sir.

Q. And later on, as Mr. Bill and I and the Court have recalled, that statement you took, which is the statement outlined in State's Exhibit Z for identification—you understand that? A. Yes, sir.

Q. So that the matters contained in State's Exhibit Z for identification were matters that were discussed in some discussion when you were not present. But these took place in your presence? A. That is right.

Q. Now we understand each other. Now, on Sunday night, did you question Culombe? A. It was Sunday afternoon.

Q. Well, over there in the lounge of the State Police barracks? A. Yes, sir.

Q. And there was a Hartford Police Officer there and a bookie, wasn't there? A. A Hartford Police Officer was there and another person.

Q. And was he brought, that is, Culombe—brought to another office where there was a short wave radio set on the desk? A. Well—

THE COURT: Do you understand the question? Would you like to have it read?

THE WITNESS: Perhaps I had better.

(The reporter read the question.)

A. I don't know if this was before or after.

Q. Sunday afternoon?

THE COURT: The question bothering him is whether you mean before or after he talked to him.

Q. Well, the conversation with Culombe with a Hartford Police Officer there talking to him in a room with a short wave radio set on the desk? A. Yes, we did.

Q. What room was that, Sergeant? A. That was upstairs.

Q. What room is it known as? A. It is the Policewoman's room.

Q. The Policewoman's room. Now, did the Hartford Police Officer say to Culombe that Culombe was insulting your intelligence and morale, and Culombe answered—"I don't know what you mean insulting your intelligence and morale." Did that Hartford Police Officer say that to Columbe? A. He may have, I don't remember.

Q. You don't recall? A. No.

Q. Now, at that time on Sunday afternoon was his wife—Culombe's wife—present in the next room?

A. Not that I know of.

Q. Did you hear Lieutenant Rome while Culombe was being questioned by you say that Mrs. Culombe wanted to see her husband?

A. No, I did not hear her say that. I didn't know she was there.

Q. You didn't hear her voice? A. No.

Q. Was Culombe confronted by his wife Sunday afternoon in your presence? A. No, sir.

Q. Did Lieutenant Rome question Culombe in your presence on Sunday afternoon? A. Not that I remember.

Q. In your presence was Culombe charged with—or threatened to be charged with conspiracy in relation to the theft of canned goods in the place of his employment?

A. No, sir.

Q. Were canned goods discussed during the course of the interrogation — discussed with Culombe in your presence? A. Not on Sunday.

Q. But they were later on? A. On Monday.

Q. And during that course of the conversation when the canned goods were discussed was Mrs. Culombe present?
A. No, sir.

Q. Were the canned goods in the room where Culombe was being questioned? A. I don't remember.

Q. Was Mr. Matus of the County Detective's office present when you questioned Culombe on Sunday afternoon? A. I don't think so.

Q. Were you present on Monday morning the 25th when Culombe and Taborsky were taken out of their cells to be taken to New Britain Police Headquarters?
A. No, sir.

Q. You were not in the building or anywhere near them? A. Not that I remember.

Q. Do you recall when were they brought back from New Britain after being booked down there? A. I don't remember when they were brought back but I did talk to Culombe on Monday.

Q. What time did you talk to him on Monday?
A. Sometime in the afternoon.

Q. What room did you talk to Culombe in? A. In our Report room.

Q. The Report room? A. Where the Lieutenant's office is—Lieutenant Rome.

Q. In Lieutenant Rome's room? A. Yes.

Q. How long did you talk with him? A. Fifteen or twenty minutes.

Q. Who was in the room when you talked with him on Monday afternoon? A. Lieutenant Rome and myself.

Q. And you didn't talk to him for more than fifteen or twenty minutes? Isn't it a fact that you talked to him for several hours on Monday afternoon? A. I remember talking to him only for a short while on Monday.

Q. You mean you yourself only talked to him for fifteen or twenty minutes, but Lieutenant Rome was questioning him and you went about on some other business, and he was taken away after being questioned by you and locked up in a cell? A. No, I think anohetr officer took him over to question him on his statement.

Q. And they talked to him where? A. We turned him over to another Officer to take a statement.

Q. They didn't get a statement on Monday afternoon, did they? A. Yes, sir.

Q. What was the statement about? A. About the canned goods.

Q. That is when he was questioned about stealing canned goods from his place of employment? A. Yes.

Q. And he was told that his wife could be charged with conspiracy for the theft of the canned goods? A. I don't remember any statement like that.

Q. Did you mention the canned goods to him?
A. Yes, I asked him where they came from.

Q. In that conversation on Monday afternoon in Lieutenant Rome's office, did Lieutenant Rome ask him in your presence if he had read the paper that morning? A. I don't remember that. That man isn't supposed to be able or read.

Q. That is what you understand? A. That is what he told me.

Q. Didn't he say, when he was asked by Lieutenant Rome if he had read the papers that morning, "I-don't have

any newsboy and besides I can't read."—do you remember him saying that? A. No, sir.

Q. Do you remember Lieutenant Rome showing him pictures of masks and guns? A. No, I don't.

Q. When you say you don't remember you are not saying that it didn't happen, but just that you don't remember whether or not these things occurred? A. I don't remember any of these things you are asking me occurring, sir.

Q. Was Culombe shown pictures of masks and guns on Monday afternoon in your presence? A. No, sir.

Q. Was Culombe told in your presence that tests showed that one of the guns had been used in a murder in New York and that New York detectives were coming up to question him about the New York murder? A. I don't remember anything like that.

Q. Was this New York murder discussed with Culombe? Yes, it was.

Q. Who was there when that was discussed?
A. This was on Thursday afternoon.

Q. Well, isn't it a fact, Sergeant Paige, that long before Thursday, long before the so-called confessions were signed, statements were given by your department, to your knowledge, that a New York murder was being investigated?
A. It may have been—I don't remember anything about that.

Q. Wasn't there questioning by other Officers in your presence or by yourself about the holdup in New York and a killing where masks were used? A. That was on Thursday afternoon. I asked Culombe if he was involved in those things.

Q. This is on Thursday? A. That is right, there were some New York detectives who talked to him.

Q. These statements were the ones that were typed up by who did you say it was—Detective—. A. O'Brien.

Q. When, to your knowledge, if you know, was this information received from New York about the New York murder? A. That I don't know.

Q. Someone else might, but you have no knowledge of it? A. That is right.

Q. Did you see any New York detectives in the State Police Headquarters during this investigation? A. On Thursday afternoon.

Q. Did Culombe say that he had nothing at all to do with that New York matter because he wasn't in New York? A. Well, he told me at one time—I don't remember exactly—that he had been in New York with Taborsky.

Q. When he was asked about the New York murder, didn't he say he didn't have anything to do with that and that he was not worried? A. That is right.

Q. Now, didn't Lieutenant Rome in your presence on Monday afternoon question Culombe about the guns? A. No, sir.

Q. What did he question him about? A. The only thing I remember talking to him about on Monday afternoon was about the canned goods.

Q. Nothing else? A. That is all.

Q. Didn't you—or did you at anytime during the course of your investigation hear Lieutenant Rome say or ask Culombe whether or not he let Taborsky handle the guns? A. No, I don't remember anything like that.

Q. Did Lieutenant Rome in your presence say to Colombe, "You look pretty simple to me—I don't know why you are taking the rap for this alone—you let Taborsky take these guns." Did he say that in your presence?

A. I don't remember him saying anything like that.

Q. Did you have a list of the places in your hand Sunday afternoon when you were questioning Culombe—a list of the places involving other crimes that took place, and did you question Culombe about that? A. The list,—that was on Wednesday.

Q. You didn't on Sunday? A. No.

Q. Did you on Monday? A. No.

Q. Or Tuesday? A. No, sir.

Q. Well, you knew about these other crimes having taken place before Wednesday? A. Yes, sir.

Q. And you didn't question Culombe about any of these other crimes from Saturday until Wednesday?

A. Well, when we took the trip to Rocky Hill I asked him if he had been there before.

Q. You did question him about that? A. Yes.

Q. You didn't question him about other crimes besides the Rocky Hill and Coventry matters? A. Well, whatever questions were asked along that line was on the trip to Rocky Hill.

Q. Was that the time on Saturday afternoon you questioned Culombe about any other crimes? A. Well, on Sunday I questioned him about the attempted stickup of this "dugout".

Q. The Bookie place? A. Yes. On Monday I talked about the canned goods, on Tuesday I just sat with him for awhile, and it wasn't until Wednesday that I went over the list.

Q. How much time did you spend with Culombe on Tuesday? A. Just in the evening.

Q. Not in the afternoon at all? A. No, I think, as I say, I spent fifteen or twenty minutes in the cell that evening.

Q. Were you in at State Police Headquarters on Tuesday afternoon? A. I must have been in and out of there.

Q. Well, Culombe had a pretty rough time on Tuesday afternoon, didn't he? A. Not that I know of, sir.

Q. Who brought him up to the jail Tuesday night? A. Some other officers.

Q. You talked to Culombe Tuesday night in his cell? A. I went in and asked him a couple of questions.

Q. That is the night he cried? A. He didn't cry.

Q. He sobbed, you said? A. That is what you said.

Q. Sergeant, I am recalling your testimony of Friday afternoon that on Tuesday night—and that was the evidence—after his wife had been to see him, he was brought down to the cell and he sobbed.

MR. BILL: May I find out if that is in the transcript?

THE WITNESS: You used the word "sob". I would describe it as choked up when I asked him a question.

Q. Then I will use your own expression. A. I understand what is in there. I told you that, if you wanted to use the word sob it was all right with me.

Q. You understand exactly what is in this transcript? A. No, I don't, but I remember what I said.

Q. Have you looked at the transcript over the weekend? A. No.

Q. And you say that I used the word sob and not you? A. The use of the word "sob"—I went along with it.

Q. You didn't use the word "sob" on the witness stand? A. I must have used it.

Q. I will read you your testimony on page 558 of the transcript on Friday:

"Q. Now, Culombe was rather a sorry sight physically at the time that he signed this statement, wasn't he? A. No. As a matter of fact, he looked ten years younger." Do you recall that? A. Yes.

"Q. We won't talk about his youth or his age, though we may get around to it. Lieutenant Rome testified yesterday about Culombe being a sorry sight. Did you see him when he was a sorry sight? A. As far as his clothing went, I would say yes.

"Q. Well, as far as his face went and the expression on it? A. He was tired, yes, sir.

"Q. He was tired? He had been through quite an ordeal, hadn't he? A. That's true.

"Q. He had cried at one time, hadn't he? A. He had sobbed."

MR. BILL: Go ahead.

"Q. And when was that, Monday afternoon? A. No.

"Q. When was it? A. Tuesday night, just before we went—before he was brought back to the jail. I had gone down to the cell with him and he had just been talking to his wife, and I started asking him a few questions and I saw that he wouldn't answer any, so I just stayed with him for awhile, and when I asked him questions he said he didn't want to talk about it, or didn't want to talk, and that was all."

Now, where does it appear that I used the word "sob"?
A. It doesn't appear there.

Q. Then do you want to change your testimony that I used the word? A. No.

Q. You just testified a few moment ago that I used the word "sob" and that you adopted it from me. I read the transcript for you. Did you hear anywhere in the transcript where I used the word "sob"? A. No.

Q. Then you used the word and volunteered the information that he sobbed? A. Yes, you read it from the transcript. You also used the word "sob" because I remember you said he sobbed.

Q. Sergeant, you used the word "sob".
A. That's right.

Q. And he did sob, didn't he? A. That is what I was trying to explain. He was choked up instead of sobbing.

Q. Now you want it "choked up"?
A. All right, "sob".

Q. You testified to the fact, didn't you? A. I am still testifying as to the facts.

Q. He did get quite a working over Tuesday, didn't he? A. No, sir, not that I know of.

Q. You said that he said, after the sobbing "I started asking him a few questions and saw that he would not answer anything so I just stayed with him for a while, and I asked him questions he said that he did not want to talk about it, or didn't want to talk, and that was all." That was the situation, wasn't it? A. Right.

Q. He had sobbed and he didn't want to talk and answer your questions, that's true, isn't it?
A. Your Honor I can't say "yes" to that.

THE COURT: If you can't you can say what you want to say.

Q. He had been through quite an ordeal, hadn't he?
A. He was upset because he had been talking to his wife.

Q. You were asked, Sergeant, on page 558 of the transcript, "He was tired, he had been through quite an ordeal, hadn't he?" And you answered "That's true." And you still stand by that testimony, don't you, Sergeant?
A. That's right.

Q. Going back to what he said, he didn't want to be be asked any questions, he wanted to be left alone, didn't he go further than that in what he said to you? Didn't he say more? A. Not that I remember.

Q. Didn't he ask to be brought up to the jail Tuesnight? A. He didn't ask me that.

Q Didn't he tell you "Get out of my cell and leave me alone and take me up to the county jail"? A. No, sir, I don't remember him saying that.

Q. He was taken out of his cell and taken up to the county jail, wasn't he?
A. That's right, on a mittimus.

Q. And you left his cell and it was at his request that he went to the county jail?
A. No, sir. There was a mittimus issued for him to be brought to the jail.

Q. When was that mittimus issued? Monday morning? Tuesday morning? A. Tuesday.

Q Well, he wasn't brought to the jail Wednesday night, and that mittimus was still in existence, was he? He was not brought up on that mittimus Wednesday night,

was he? A. No, sir. We took him out of the jail Wednesday morning.

Q. And you kept him in state police headquarters Wednesday night didn't you? A. Yes, sir, he wanted to stay there.

Q. And were you present when he was brought downstairs Tuesay night and placed in his cell after being questioned, after having gone through quite an ordeal, as you admit? Were you present when he was brought down to his cell? A. No, sir.

MR. BILL: I object to that question about the "ordeal" as you admit, because the witness stated that was as a result of his wife's conference with Culombe.

THE COURT: I will overrule the objection. Allow it to stand.

Q. Do you know the condition that he was in when he was brought to the jail, the physical condition?

A. He was all right as far as I know.

Q. Well, were you there when he was kicked in the side? A. He wasn't kicked in the side while I was there.

Q. Do you know whether or not he complained at the jail that he had been kicked in the side in State Police Headquarters? A. I don't know anything about that.

Q. Do you know whether or not he received treatment at the jail? A. I don't know anything about that.

Q. Do you know whether or not he received sedatives Tuesday night at the jail?

A. I don't know anything about that.

Q. Sergeant, you kept in touch with this man for several days after the statements were signed, didn't you, or your department? A. Yes, sir.

Q. Don't you know that this man was treated at the jail by the jail physician because of his condition?
A. No, sir.

Q. You don't know that, do you? A. No, sir.

Q. You haven't checked it, have you? A. No, sir.

Q. Were you present when Culombe was in conversation with his wife, or his wife made any statement in Culombe's presence? A. No, sir.

Q. Were you with Culombe in a room at State Police Headquarters on Tuesday night when, after the questioning of Culombe was finished by you, Lieutenant Rome went to the door and asked his wife to step into the room? A. I didn't question him Tuesday night.

Q. Well, Tuesday afternoon, did that happen?
A. No.

Q. Were you present at the time when the thirteen or fourteen year old daughter of Culombe was in headquarters while he was being questioned? A. I saw her there.

Q. Did you hear Lieutenant Rome say to that little girl, after finishing questioning Culombe by yourself and him, "Honey, tell your father what you told us"? A. No.

Q. You didn't hear Lieutenant Rome say that to the daughter? A. No.

Q. Were you present when Lieutenant Rome talked to this young girl? A. No.

Q. Did you see the little youngster of the family, the one called Sandy, the sick baby in State Police Headquarters? A. I am under that impression.

Q. When did you see that little five year old child in

headquarters? A. I thought that she was the one I saw Tuesday night.

Q. Two children, Sergeant, you know that. A thirteen or fourteen year old girl and a five year old child—just a moment. Tuesday night, I thought the questioning was Tuesday afternoon. A. What questioning?

Q. Well, I thought your questioning of Culombe was Tuesday afternoon, not Tuesday night. A. I didn't question him Tuesday at all. I was in his cell for a few minutes that night, that's all. I didn't talk to him.

Q. Where were you before you went down to that cell Tuesday night? A. I was somewhere around the barracks.

Q. Weren't you working on the case? A. Yes, but we had a lot of things to do.

Q. How did you happen to go down this time?
A. I knew they was going to the county jail and I thought perhaps that he might want to talk to me.

Q. What time did you go down to his cell? A. It was somewhere between seven and seven-thirty, I think.

Q. What time was he brought to the county jail?
A. Somewheres before eight o'clock.

Q. He told you—how did you know that he was down in the cell? A. I think that Lieutenant Rome told me that he was down in the cell.

Q. Where did Lieutenant Rome tell you that? What room was that conversation in? A. I don't remember.

Q. So that was after Lieutenant Rome finished questioning him Tuesday night and after he had talked to his wife or she had talked to him, that you went down to the cell? A. That's right. I went to the cell just before he was brought to the jail.

Q. That was when he went through what was termed in the examination and agreed with by you, an ordeal, that's when you went down to the cell? A. That's right.

Q. After the ordeal? A. That's right.

Q. And why did you go to his cell? To question him? A. I went down to the cell because I thought that he might want to talk to me.

Q. You hadn't got a statement from him then, had you? A. Yes, we had a statement.

Q. The statement was signed Wednesday, wasn't it? A. This is the statement on another—

Q. Never mind the canned goods. We are not trying the canned goods case. You hadn't got a statement regarding any murder, had you? A. No.

Q. Now, you said that he regarded you as a father, didn't you? A. That's the words that he used.

Q. So you went down in a fatherly way to talk to him, didn't you? A. That's right.

Q. In other words, here was a team, you and Lieutenant Rome, the commanding officers of two teams. Lieutenant Rome was the big bad wolf and you were the soft touch in this examination?

MR. BILL: Objection.

THE COURT: I'll sustain it. The characterization is improper.

Q. You are the one that was using the easy method on him? A. That's right, I was being his friend.

Q. Who was using the rough stuff? A. Nobody.

Q. Who else was being his friend? A. Everybody was his friend there.

Q. By your being his friend, just what do you mean?

A. I took care of him, I talked to him, I saw that he was well fed. He always wanted a little bit more than everybody else ate.

Q. You saw that he was well fed, you saw that he got what he wanted, that's right, isn't it? A. That's right.

Q. And Lieutenant Rome didn't do any of that? You did it? A. He may have done that, too. I don't know.

Q. But you do not know? A. That's right.

Q. But you definitely were the—you were the good Samaritan—or His Honor doesn't want me to use characterizations, which I agree with. You were the one that was being kind to him? A. That's right.

Q. Who was being rough with him? A. Nobody that I know of.

Q. Who kicked him in the ankles? A. Nobody that I know of.

Q. Well, the questioning periods,—there were questioning periods by Lieutenant Rome that you were not present at, that's right, isn't it? A. There may have been.

Q. So he could have been kicked in the ankles, kicked in the side and grabbed by the throat and you wouldn't know anything about it, that's true, isn't it?

A. That is true, but I doubt it very much.

MR. McDONOUGH: I move to strike out the last.

THE COURT: "That's true" may stand. The rest may go out.

Q. Was there a Mrs. Murtha, a policewoman in the room? Tuesday night, when Culombe was being questioned at any part of the questioning period? A. I don't know.

Q. You know that she worked on this case, don't you?
A. Yes.

Q. How many times, and I want this to the best of you recollection, Sergeant, how many times was Mrs. Culombe brought to State Police Headquarters between Saturday afternoon and Wednesday afternoon?
A. All I know is that I saw her there Tuesday.

Q. Who had charge of bringing her to headquarters back and forth between her home and headquarters?
A. I don't know. Lieutenant Rome handled the investigation.

Q. Now, you had other things to do in headquarters. Tuesday night you weren't there during the examination by Lieutenant Rome. What were you doing?
A. I don't remember. I was around the buildng somewhere.

Q. Will the record show what cases you were working on Tuesday night of that week? A. I was working on this case.

Q. Then you were working on this particular case?
A. That's right, but I don't know exactly what I was doing.

Q. What other work was there to do in this case other than questioning Culombe, unless you were questioning Taborsky? A. We had a lot of checking to do.

MR. McDONOUGH: May I, while it occurs to me, Your Honor, at this time ask that the State be ordered to produce the booking records of the State Police Department as of Saturday, the 23rd of February, when the testimony is that Culombe was booked, so that it will show the time that he was booked and the charge that he was booked on? And I understand, I have information that he was booked on another occasion in State Police Headquarters.

I would also ask that the State produce the records of the New Britain Police Department, showing the booking down there similar to the Hartford State Police Headquarters, the complete record showing the time and the charge. And I would ask that the State produce the information issued by the prosecuting attorney in New Britain upon which Culombe was presented in the New Britain Police Court.

THE COURT: Is there any objection to that, Mr. Bill?

MR. BILL: No, Your Honor. I have got those last two right here.

MR. BURKE: Your Honor please, at the same time I would like to request the same records for Taborsky.

MR. BILL: I was going to introduce these anyway before I close.

THE COURT: I can't make any order in your matter, Mr. Burke, at the moment, but I take it that you will produce them, Mr. Bill?

MR. BILL: Yes, Your Honor. I didn't take them all down. I'll have to get them from the transcript unless you want to repeat them. The February 23rd booking at the State Police, and the State Police records, that's number one?

MR. McDONOUGH: That's right. Then there was a second booking, so I am informed, at the State Police.

MR. BILL: Do you know when that was? Well, there was a second booking of Culombe at State Police Headquarters?

MR. McDONOUGH: One Sunday also, Saturday and Sunday. I meant in New Britain.

MR. BILL: I meant the booking in the New Britain Police Department.

MR. McDONOUGH: Yes.

MR. BILL: What else did you ask for?

MR. McDONOUGH: The information.

MR. BILL: The warrants of the Court's proceedings on Tuesday?

MR. McDONOUGH: That's right.

MR. BILL: Yes, I will be glad to.

MR. McDONOUGH: Thank you.

THE COURT: Go ahead, Mr. McDonough.

Q. Isn't it a fact, Sergeant that some of these questioning periods by Lieutenant Rome that you were in the building or did not participate, such as Tuesday night, that I have been asking about— A. I was not—he may have been questioned and I wouldn't know anything about it.

Q. You were in the building but not participating in the questioning or not in the room ? A. That's right.

Q. Wasn't there a purpose in your not being in the room, so that if abuse or rough stuff, as it is called was used on Culombe that you would not be present and have to testify to it in Court? A. No, sir.

Q. Wasn't that done deliberately, you not going into the questioning periods where Lieutenant Rome handled them? A. If that was done deliberately I wouldn't nkow anything about it. All I did was take orders.

Q. Did Lieutenant Rome order you not to come into the room when he was questioning?

No, things just—it is just the way that it happened.

Q. It just happened that you were not there and saw anything that I have asked you about? A. That's right.

Q. In relation to the so-called kicks or chokes?
A. That's right.

Q. Did you at any time hear Mrs. Culombe say "I know my husband did not shoot anybody because he has not got the courage"?
A. No, I didn't hear that.

Q. Now, the Tuesday night when Culombe went to his cell, cried, according to the testimony, and sobbed, to use your own language, you were in his cell for about twenty minutes, weren't you? A. About fifteen or twenty minutes.

Q. You talked to him like a father and asked him a few questions? A. Something along that line.

Q. Didn't you say to him "Did you enjoy seeing your wife and kids?" Didn't you say that to him, asked him if he enjoyed seeing his wife and kids?
A. I may have. I don't remember that.

Q. Well, you may have. Do you remember Culombe saying "Imagine your lieutenant bringing kids into a place like this. Will you please get out of my cell and leave me alone. I want to be brought to the county jail and left alone." Didn't Culombe make that reply to you when you said "Didn't you enjoy seeing your wife and kids?"
A. I don't remember him saying anything like that, Mr. McDonough. He may have. But I don't remember that.

Q. It was rather a rough thing, bringing the wife and kids in, wasn't it?

MR. BILL: Objection, Your Honor.

THE COURT: I will sustain it.

MR. McDONOUGH: Exception, please.

THE COURT: Surely.

Q. Well, up until this Tuesday night when Culombe had been questioned in the afternoon by you and questioned by Lieutenant at night, and gone to his cell sobbing, and then traveled to the county jail, you had not any signed statements from him regarding the New Britain murder, had you? A. That's right.

Q. Wednesday morning, Sergeant, he was brought to State Police Headquarters, wasn't he? A. That's right.

Q. And you brought him upstairs, didn't you, from the cell? A. Wednesday afternoon.

Q. Wednesday afternoon you brought him upstairs?
A. Yes.

Q. And is it Sergeant or Detective Murphy?
A. Detective Sergeant.

Q. Detective Sergeant Murphy was in the room?
A. Oh, if you are referring to Murphy it is Detective.

Q. Is he a Sergeant or Detective? A. Detective.

Q. Detective Murphy and yourself, and Culombe were in the room together? A. That's righ.

Q. Did you start off the conversation by saying to Culombe, Sergeant: "We are going to play a little game. The game is —were you there, or don't you want to talk about it"? Do you remember saying that to Culombe?
A. No, sir

Q. Well, he is of the mentality that you could play games with, isn't he? A. No.

Q. Well, you had been playing games with him from Saturday until that point on Wednesday afternoon and hadn't got anywhere? A. We hadn't been playing games, we had been conducting an investigation of murders.

Q. Well, from the knowledge of Culombe you had gained from Saturday afternoon up to Wednesday afternoon when this new questioning began, you had reached a pretty fair opinion as to his mentality—that is, you had an opinion? A. I wouldn't say as to his mentality—as to his nature, yes.

Q. Well, of his nature, and based on that information and opinion you had obtained, you were going to go ahead on Wednesday afternoon in an endeavor to get a statement about the New Britain murders? A. No, there wasn't anything planned as to how I would talk to him. I just felt I would talk to him naturally.

Q. Hadn't you a plan of procedure to follow out with this man you had worked with — I don't mean you worked him over—but had worked with him for four days and hadn't got a statement about the murders? A. That is not necessarily so.

Q. So that you had reached a point where in your own mind anyway you had an idea that you might be successful then in getting a statement? A. It wasn't any planned idea.

Q. You had thought out a way of handling the situation — let us put it that way? A. Actually, no.

Q. What were you doing stabbing around in the dark? A. No, I felt that if I sat down and talked with him that he and I had been close enough so that he would tell me the truth.

Q. Now you are describing just what I meant. You had the feeling that if you sat down and talked with him in a nice way he would tell you the truth? A. That's right.

Q. And that talk in a nice way would be in an endeavor to get the truth, and you started out by saying, "Let us play a little game", because he is just about of the brain

trust that would play games? A. No, that isn't what happened.

Q. Didn't you use those words like "playing a game"? A. No.

Q. Now, I am thinking of your prior testimony. You did say to him, "We are going to ask you about these things and if you don't want to talk about them, say so, but don't lie to us. If you don't want to talk about it say, 'I don't want to talk about it'" That is the situation, isn't it? A. Substantially, yes.

Q. That is the procedure you were following out, and that went along for about an hour, and he said he didn't want to talk about it? A. I went over each of these crimes, the Rosenthal killing and the Cohen killing and the Leone shooting and the New Britain killings, the ones in Coventry and Rocky Hill, and I asked him, "Were you there, Arthur?" and he said I don't want to talk about them.

Q. And that [illegible] up— A. Then we went into — What happened was, I talked to him alone, and when we had gone through this story I told him I thought he was involved in everyone of them and I called in Murphy.

Q. And Murphy took a statement from him? A. No, I left the room for a couple of minutes and went back in again.

Q. Well, Culombe was pretty nervous that afternoon —upset and nervous? A. No, sir, not that afternoon.

Q. I refer to your testimony on page 583 of the transcript you were asked, "He had been going through questioning all that night, hadn't he, and all that afternoon of the 27th?" and your answer was, "That's correct." A. Well, this was the afternoon of the 27th. We just started talking to him.

Q. And he had been questioned all the night before? A. No, he was in the County Jail.

Q. The night he cried and sobbed? A. The evening before he talked with his wife.

Q. He had been going through a continuous questioning the afternoon and the night before? A. I don't know about the afternoon before he had talked to us. But he had talked to his wife the evening before and this was the next day at one-thirty.

Q. And then he was taken to New Britain Police Headquarters on Tuesday, and what happened down there you don't know because you weren't there. It was Tuesday and he went to New Britain and Tuesday night was when you found him sobbing in his cell? A. Not Tuesday afternoon.

Q. Not by you—but he was questioned? A. I can't answer as to that.

Q. But I am asking you this—he was upset and nervous on Wednesday afternoon? A. No, sir.

Q. He kept saying he didn't want to talk about it for a long period of time? A. Yes, because of the agreement we had that rather than lie he would say he didn't want to talk about it.

Q. You mean you had agreed on the form of his answers? A. We had agreed that rather than tell me lies he would say that he didn't want to talk about it.

Q. You were telling him in advance what his answers were—that rather than lie to tell you that he didn't want to talk about it? A. He told me he had lied enough and we both agreed on that.

Q. When was that? A. As we proceeded along with what I was asking him to say.

Q. When did he tell you that? A. When we first went into the room.

Q. Wednesday afternoon? A. Yes.

Q. What was his next answer? A. I didn't quite get your question.

Q. Well, he had told you he had lied enough. What did you say to him next? A. I agreed with him.

Q. Then what? A. I said, "Rather than lie in answer to my questions, say you don't want to talk about it."

Q. Why didn't you say, "Why do you lie to us?"
A. It just didn't work out that way.

Q. You didn't think of it? A. I don't know whether I thought of it.

Q. You just had an idea that he was lying to you and you didn't ask him what he lied about? A. I knew he was lying right along.

Q. But you didn't ask him what he had lied about?
A. No, sir.

Q. And you were working continuously along the same lines? A. That is so.

Q. And you did? A. That's right.

Q. And that continued until you left for New Britain?
A. Yes, sir.

Q. Didn't you ask him before he left for New Britain if he would sign a statement if one was drawn up?
A. No. The only thing we talked about was where the guns were.

Q. And then you went to New Britain? A. No.

Q. Didn't you go to New Britain on Wednesday afternoon? A. No, sir.

Q. When did you go to New Britain? A. That wasn't until after court here in Hartford.

Q. He didn't go to New Britain before he signed the statements? A. No, sir.

Q. Had you gone down to Culombe's house? A. On Wednesday afternoon.

Q. Before he signed the statements you had gone to Culombe's house? A. That's right.

Q. And up to the time you had left for Culombe's house he had consistently said he didn't want to talk about it, isn't that so? A. No, sir.

Q. Well, did he talk about it? A. He agreed to show us the guns that had been used in the New Britain case and two others.

Q. He agreed to show you some guns? A. The guns used in the New Britain case.

Q. When he made that statement was that before you went to the house? A. Yes.

Q. You didn't take that statement down? A. No.

Q. You didn't take any statement down before you went to his house? A. No.

Q. Even though he had told you about guns that had been used? A. Yes.

Q. Did he say who used the guns? A. At that time he stated that he himself had never shot anybody.

Q. He didn't tell you who used the New Britain gun in a murder? A. No.

Q. At any rate, you went down to his house on Coleman Drive? A. Yes.

Q. And you went with whom? A. Lieutenant Rome and Detectives O'Brien, Murphy and myself.

Q. Was Mrs. Murtha there? A. No.

Q. Before he talked about the guns and before you left for his home on Wednesday afternoon did you tell Culombe—did you ask him if there were any guns in the brook down there? A. Yes.

Q. Did you ask him if he had thrown any guns in the brook down there in back of the project? A. First he didn't want to talk about it, and then I said that we didn't find any guns in the brook in back of the houses down there.

Q. Didn't he deny throwing any guns in the brook, and didn't you say to him we can send a team of men down there and he said you can send the team of men? A. That is right—something along that line.

Q. And then you said, "Well, they may be used"—meaning the team of men? A. Right.

Q. In other words, a team of men might be sent by you? A. Yes.

Q. You told him that? A. That is right.

Q. And then you said, "You want to tell the truth, but you don't know how to go about it"—didn't you say that to Culombe? A. The exact words I don't remember.

Q. Then didn't you say to him, "If you don't want to tell us, do you want to tell the State's Attorney, Mr. Bill?"

A. No, I don't remember saying that.

Q. Well, by not remembering—you may have said it—is that it—you don't recall it, is that it? A. I don't recall saying that, Mr. McDonough.

Q. Did Columbe say to you that he would like the State's Attorney to know about it? A. I believe so.

Q. It is so. And he said, "He will know what to do about it." That is, referring to the State's Attorney?

A. No.

A. He wanted the State's Attorney to know that he was cooperating with us by showing us where the guns were.

MR. McDONOUGH: May that answer go out?

THE COURT: Yes, it is not responsive. Read it

(The reporter read the question.)

Q. That is so? A. I don't remember him asking to see him.

Q. Well, to talk to the State's Attorney—State's Attorney Bill—didn't he tell you that he wanted to talk to the State's Attorney? A. No, he didn't.

Q. If I recall your testimony on Friday, you did testify that he did want to talk to the State's Attorney Bill.

THE COURT: That is not my recollection.

MR. McDONOUGH: I will reframe the question.

Q. He did mention the State's Attorney—Mr. Bill when you asked him would he tell the truth? A. It wasn't in response to a question like that.

Q. All right. He did talk about the State's Attorney—that he wanted to see him, didn't he? A. I don't remember him saying he wanted to see him.

Q. He did talk about the State's Attorney? A. That is right.

Q. Didn't he say he wanted Mr. Bill to see his state-

ment? A. If that is what it said in there. He said that he wanted Mr. Bill to know he was cooperating with us. Either words are the same as far as I am concerned.

Q. Didn't he say he wanted Mr. Bill to see his statement? A. Yes.

Q. And that is before he gave you a statement?
A. Yes, that was sometime before, I believe.

Q. Well, he did mention the State's Attorney's name —that he wanted to talk to him and see him—there was some testimony in connection with the State's Attorney—something that he mentioned to you? A. Yes.

Q. And up to this time he had not seen a lawyer, though he had asked for one? A. I don't know about asking for one—he didn't see one so far as I know.

Q. Then he did mention the State's Attorney. Did you get in touch with the State's Attorney? A. No, I did not.

Q. To your knowledge did anyone get in touch with the State's Attorney before he signed a statement? A. I don't know.

Q. The State's Attorney wasn't present when he signed the statement? A. No, he wasn't.

Q. Then you went down to Coleman Drive, didn't you? A. That's right.

Q. And this conversation in which the State's Attorney's name was mentioned took place in the barracks before you left for Coleman Drive, isn't that true?
A. That is what I wasn't sure about.

Q. You are sure about it now? A. No, I am not. Wait a minute. There was some question about he wanted Mr. Bill to know—before we left—he wanted Mr. Bill to know he was cooperating.

Q. That is before you left the barracks to go to the house? A. Yes.

Q. So that there was a sort of an agreement that Mr. Bill would be notified? A. There was no agreement.

Q Well, what was told to Mr. Culombe when he mentioned Mr. Bill? A. I don't remember the exact words but I suppose I must have told him he would be told about it.

Q. Then he got cooperative? A. No, he was cooperative before that.

Q. He got real cooperative then—he was right on the way to a statement, isn't that true? A. No, sir. We asked him questions after that but it was close to the turning point.

Q. It was shortly thereafter you got a statement out of him? A. No, sir, those statements were not given until several hours later.

Q. And anytime thereafter he didn't state that he didn't want to talk about it? A. That's correct.

Q. So that the situation changed from one where he didn't want to talk about it to where he was talking about it? A. Yes.

Q. After some assurance was given about Mr. Bill—then he didn't say anymore that he didn't want to talk about it, and he talked from then on? A. He talked before—he talked from before.

Q. Did he clam up on you then? A. No, he was giving us a little at a time.

Q. He did talk from then on, didn't he? A. Yes, sir.

THE COURT: Now, let the witness finish his answer before you ask another question.

Escort the accused from the courtroom.

Short recess.

(Recess was taken at 11:28 A.M.)

JUNE 11th, 1957. 11:45 A.M.

THE COURT: Bring up the accused, Sheriff.

(Accused present).

(Jury and alternates not present).

DONALD PAIGE, on the witness stand.

THE COURT: You may proceed when you are ready, Mr. McDonough.

MR. McDONOUGH: Thank you.

CROSS EXAMINATION BY MR. McDONOUGH: (RESUMED).

Q. Now, Sergeant, Friday afternoon, on Page 593 of the transcript, it is shown 'When was the first time during these five days of interrogation was it that notes were made of conversations with Culombe?

"A. I don't know what the other officers did.

"Q. Just so far as you know.

"A. I didn't make any notes.

"Q. By anyone else? Did anyone else make notes of the conversations, or of the conversations with Culombe?

"A. Not that I know of." Was your answer.

Q. So you didn't make notes until the time the statements were taken, of your conversations with Culombe?

A. I didn't. Detective O'Brien did.

Q. You did not? A. No.

Q. On page 567 of the transcript you were asked this line of questions—page 566 we will start on.

"Q. And he had been doing that in addition to denying it"—I'll go further back. This is referring, I believe, to the Wednesday afternoon conversation.

"Q. How long did he continue to say that?—that is the answer "I don't want to talk about it." And your answer "Well, I started talking to him at 1:30 and it was just a short while afterwards that I took this piece of paper with all the different crimes on it and asked him these questions. Murphy came in and repeated the same thing and we were out of the barracks by half past three that afternoon."

Q. Now, on page 567, the following page, you were asked the question, "Just about New Britain?" And your answer was "When I asked him—" and then you turned to the Court and you said "Your Honor, can I refer to this note that I have here?" You did make a note, then, didn't you?

A. No, that wasn't a note.

Q. You said that it was a note. A. This was a paper with a listing of all the crimes on it that I was referring to.

Q. That wasn't a note? A. No, it is a paper that was made up by our department describing all the crimes.

MR. McDONOUGH: May I have a moment, Your Honor?

THE COURT: Surely.

Q. Did you tell Culombe, Sergeant Paige, relative to the request about Mr. Bill, that "I don't know how to go about this. I tried to get him"—meaning Mr. Bill "on the phone and I went over there but he is not there"?

A. No, sir.

Q. Did Lieutenant Rome say that in your presence?

A. I don't remember him saying that.

Q. Then you went down to Culombe's house?
A. Yes, sir.

Q. On Coleman Drive. And Mrs. Culombe was there?
A. That's right.

Q. Miss Murtha was there? A. No.

Q. Lieutenant Rome was there? A. Yes.

Q. Detective Murphy was there? A. Yes.

Q. And you were there? A. I was there, and then we had two photographers with us.

Q. Department photographers? A. That's right.

Q. And why were the photographers there?
A. To take a picture of the evidence as we obtained it.

Q. Take a picture of the guns and things? A. As we obtained them.

Q. If you did obtain them? A. Yes.

Q. Now, was the thirteen or fourteen year old girl there? Was she there or was she in school?
A. I don't think that she was there. I think that the little girl was there.

Q. Well, the thirteen or fourteen year old girl was in the barracks at the time, wasn't she? A. No, sir, not that I know of.

Q. Are you sure that you don't know?

MR. BILL: May I ask Your Honor, through you, when this was that we are talking about at the barracks?

THE COURT: At the time that they went to Culombe's house.

THE WITNESS: I don't—

THE COURT: He hasn't answered your question. He is waiting for you.

THE WITNESS: I don't know where she was. She wasn't with us.

Q. Didn't you send for her later on to be brought from the barracks to the house? A. No, sir.

Q. Well, getting back to the Mr. Bill matter, relative to Culombe's request, and that is what it was, referred to in your testimony Friday, I said "Condition" and you said "Request". Do you recall that? A. Yes.

Q. Relative to Culombe's request did you make a written report to Mr. Bill? A No, sir.

Q. Didn't you make a written report at all to Mr. Bill?
A. Of the whole case, yes.

Q. Where is that report? A. He has a copy of it.

MR. McDONOUGH: May I ask the State to produce Sergeant Paige's report to the State's Attorney?

THE COURT: You may ask him. Can you do it, Mr. Bill?

MR. BILL: I am going to remove it from the books here, Mr. McDonough.

MR. McDONOUGH: All right. I think that that would be better, anyway.

MR. BILL: There's two pages, Mr. McDonough, that I produce, and there are some pencil marks that I made myself. They were not on there when I got them.

MR. McDONOUGH: Thank you. May I have a moment, Your Honor, please?

THE COURT: Surely.

Q. Showing you the sheets of paper, Sergeant, can you identify them? A. Yes, that is my report.

Q. To the State's Attorney for Hartford County, Mr. Bill? A. That's right.

Q. The report referred to in your testimony?
A. That's right.

Q. Made after the investigation closed? A. That's right.

MR. McDONOUGH: May these be marked for identification, Your Honor, two pages?

THE COURT: Defendant Culombe's Exhibit 1, for identification.

(Two page report of Sergeant Paige, marked "Defendant Culombe's Exhibit 1, for Identification").

Q. As I recall the testimony, Sergeant, there were no notes made until you returned from Coleman Drive on Wednesday afternoon, is that correct? A. No, sir.

Q. Were notes made before you left for Coleman Drive? A. There were notes made by Detective O'Brien. I don't know if he started it upstairs or started it in the car.

Q. Of the conversation that took place in the barracks? A. Just as we were ready to leave.

Q. I think that I recall this. Maybe we can get together on this. I think you said in the car Friday afternoon, you testified that you believed Detective O'Brien made notes of the conversation in the car? A. Yes, I saw him doing that.

Q. But there was no notes made in the barracks?
A. That is where I am a little confused. I was under the impression that just as we were ready to leave that he came into the room as were getting ready to go and

started taking shorthand notes. Whether he did or not I am not sure.

Q. You are not certain? A. No, I am not sure.

Q. Well, if—will you look at Culombe's Exhibit 1, for identification and refresh your recollection and see whether or not Detective O'Brien made any notes in the barracks before you left for Coleman Drive? A. I state here he took the notes in regard to Culombe's admission.

Q. So that is now your recollection after referring to your report that he took notes in the barracks?

A. It was before, too. I was under the impression that he took some. Then I saw him taking them while we were on the ride to Culombe's.

Q. Now, you have testified only that a short while ago this morning that he took notes in the car. You also testified to that effect Friday. Your report to the State's Attorney does not indicate that he made notes in the car.

A. His report would indicate that.

Q. But yours does not? A. No.

Q. Now, where are those notes? A. I imagine that he has them.

Q. They were official notes of the department?

A. They were shorthand notes that he was taking as we were going along.

Q. That Detective O'Brien made? A. That's right.

Q. Not Detective Murphy? A. No, Detective O'Brien.

Q. When the statements were taken Detective O'Brien was in the room making the notes, shorthand notes, is that right? A. Which time are you referring to? After we came back?

Q. After you came back? A. No, when we came back he was taking it right down on the typewriter.

Q. But he made shorthand notes before you left for the Coleman Drive house, and in the car? A. He took them in the car and I am under the impression before we left.

Q. And the statement that was later typed out by Detective O'Brien was made from dictation by Lieutenant Rome, that's right, isn't it? A. The statement, he was asking Culombe the questions and then putting it in words so that they would be in sequence.

Q. So that the statement was not made from any of the notes made by Detective O'Brien in the barracks before you left for Coleman Drive, was it? A. No, it was taken exactly what Culombe told him.

MR. McDONOUGH: May I ask the State to produce the notes of Detective O'Brien, the shorthand notes?

THE COURT: You may ask it.

MR. McDONOUGH: Just make them available to us? Not right at this present time.

MR. BILL: I had expected to put him on and I'll be very glad to have him read them. I suppose the objection would be that he would have to refresh his recollection. I suppose that he would have to testify that he has no recollection.

MR. McDONOUGH: That solves the question that I have in my mind.

MR. BILL: I have nothing to conceal.

MR. McDONOUGH: Oh, I didn't say that, Mr. Bill. Just so long as you intend to produce him.

MR. BILL: Yes, I will put him on.

Q. Now, Sergeant Paige you have told the Court about making this report to the State's Attorney for this county. This is a complete report of your procedure and your questioning of Culombe, isn't it? A. This is a report that covers the New Britain case.

Q. Of the New Britain case? And this report does not contain, does it, to Mr. Bill, that a request be made that Mr. Bill be notified of the statements that were to be made, does it? A. No, it doesn't.

Q. So Mr. Bill was never notified by you that Culombe, before he made the statement, requested that Mr. Bill be notified of the statemnt? It dosn't contain that, does it? A. No, it does not.

Q. Didn't you think that it was of sufficient importance to put in there, Culombe's request that he wanted the State's Attorney notified? A. No.

Q. You didn't A. That wasn't my job. That was Lieutenant Rome's job.

Q. This is your report, Sergeant. All I want to get from you is, the request was made to you or in your presence that he wanted the State's Attorney notified, and you did not think it of sufficient importance to include that in your report to the State's Attorney. That's all I want from you. A. No, because at the time we were taking statements Eddie Matus was there.

Q. Eddie Matus isn't the State's Attorney.

A. No, but he is a representative of that office.

Q. But Culombe asked for Mr. Bill, the State's Attorney, that's true, isn't it? A. Yes.

Q. It boils down to this, that he was not notified and there is nothing in your report to Mr. Bill that Culombe wanted him notified, is there? A. There is nothing in my report to that effect.

Q. That is all I am driving at, Sergeant. A. Okay.

Q. So then you went to Coleman Drive and you got there about three-thirty in the afternoon?

A. Somewhere around that time.

Q. And the people that you have this morning described, Mrs. Culombe, Lieutenant Rome, Detective Murphy, was Detective O'Brien there? A. Yes.

Q. Detective O'Brien, two photographers and yourself, with Culombe, were the ones present? A. That's right.

Q. In that house? A. That's right.

Q. That is a small apartment of about four rooms, isn't it? A. Yes.

Q. About that? A. Yes.

Q. And the livingroom is the place where you people gathered to talk, isn't that so? Everyone was there?

A. No. We came in and then we went over to the bathroom and to the bedroom.

Q. You went in and looked for guns? A. We looked where he told us they would be.

Q. The conversations took place in the livingroom, didn't they, which is off from the bathroom and the bedroom and the kitchen? A. There was very little conversation, actually, there.

Q. Culombe did say something when he was there, didn't he? A. Yes. He brought Lieutenant Rome in and showed him where the guns were in back of the medicine chest.

Q. Were there stenographic or shorthand notes made by Detective O'Brien of the conversations that took place that afternoon in Culombe's house? A. I don't know.

Q. You don't know? Were the stenographic notes taken by Detective O'Brien in the barracks before you left for the house, taken at anyone's direction? A. Yes, Lieutenant Rome's.

Q. Lieutenant Rome? And you were there and heard the directions given? A. I was in the car when he told Detective O'Brien to make notes.

Q. You heard that? A. Yes.

Q. You remember hearing that? A. Yes.

Q. Did you — who was in the car with Detective O'Brien when you were going to the house?

A. Murphy, Lieutenant Rome, Culombe and myself.

Q. Did you hear Lieutenant Rome direct Detective O'Brien in the car to take the notes of what Culombe was saying? A. I heard him tell Murphy to take over the wheel so that O'Brien would take notes.

Q. Did Culombe do any talking while you people were in the home on Coleman Drive? A. Yes, he must have said something.

Q. You remember? A. That he did.

Q. He talked to his wife, didn't he? A. Yes, he did talk to his wife.

Q. Did you see Detective O'Brien making any notes of his remarks that he was making? A. No, I didn't.

Q. Did you hear Lieutenant Rome instruct Detective O'Brien not to make notes of the remarks Culombe was making while at the house? A. No.

Q. Well, what remarks did Culombe make? A. I don't remember what remarks. All I remember is that he went in there and he showed us into the bathroom and he said there was—Well, this isn't word for word because

I don't remember it, but he told us the guns were in back of that medicine chest, and if I remember, he showed us how to remove the medicine chest by removing some screws and then I think we went back into the living room there and I was watching him take out the bag with the guns and blackjacks in it.

Q. What did Culombe say to his wife in the living room of the house on Wednesday afternoon—in substance, if you don't remember the words? A. I don't remember —I know that he sat down there and talked to her, but what the words were or exactly what it was about, I don't remember.

Q. You were within earshot, weren't you?
A. Yes.

Q. And it's a small room—you heard it—you heard him talking to his wife? A. Yes.

Q. Why is it you don't remember what he said?
A. I was excited about the guns and finding them, and so forth.

Q. Wait a minute, Sergeant. You were excited about the guns? How long have you been with the State Police? A. Eleven years and I still get excited.

Q. And you have been in criminal investigations many times? A. Yes, sir.

Q. And you get excited. What were you excited about? A. The guns. I had been working on the case for a long time.

Q. Five days, right? A. No, since back in December.

Q. And you got so excited over finding the guns you couldn't remember what Culombe, the man you were

charging with the murder, was saying? A. He said something to his wife but I don't recall the substance of it.

Q. Did he say this to his wife—to refresh your recollection—"This is one reason I am telling you things now—so that you won't be bothering anymore." A. I don't remember that.

Q. That is an important statement, isn't it?

A. Well—

Q. That is rather an important statement getting right up to the admissions and signed statement and this is the conversation I am telling you now: "This is one reason I am telling you things now—so that they won't be bothering you anymore." Do you remember that statement being made? A. No, I don't, Mr. McDonough.

Q. There is nothing wrong with your memory, is there? A. I do the best I can.

Q. You were just excited? A. I sure was.

Q. Do you remember things that will help the prosecution of a case and deliberately forget things that might help the defendant? A. Do you think so, Mr. McDonough?

THE COURT: No, you just answer the question.

A. No, sir. Everything I can remember you can have. That is what I am sitting here for.

Q. You stuck your neck out that time.

THE COURT: Now, Mr. McDonough, please—

MR. McDONOUGH: Yes, sir.

Q. How long did Culombe talk to his wife? A. I think we were in that apartment for about ten minutes and Murphy was staying there with Culombe.

Q. A baby—Sandy—isn't that her name? A. I don't remember.

Q. You don't remember the baby's name? Do you remember anything about this family? A. I know there are two daughters, two little girls.

Q. Call it the little one—was she sick? A. Yes, and we took care of her.

Q. Yes, you took care of her on Culombe's insistence? A. No, sir.

Q. The little baby was sitting on the couch when you were in this room? A. Yes.

Q. And Culombe was concerned about the baby, wasn't he? A. No, he wasn't concerned about the baby.

Q. Didn't Culombe say, "Take that baby to the hospital?" A. No, that baby was sick but it was sick later.

Q. That baby was taken to the hospital that night, wasn't she, Sergeant? A. I am not sure whether it was that night or the next. I know we took her to the hospital.

Q. She was taken by Miss Murtha to the McCook Hospital? A. She was taken to a hospital.

Q. While this police work was going on this little baby was sitting on the couch and she was feverish and in pain from an illness besides being frightened, wasn't she? A. I don't know if the baby was sick.

Q. You didn't know whether the baby was sick? A. No, sir.

Q. Did you see the baby looking healthy? A. I only saw the child twice,—I wouldn't know.

Q. Didn't the baby look healthy? If you don't know just say you don't know. A. I don't know.

Q. But you do know the baby was taken to the hospital that night? A. I am not sure it was that night or the next.

Q. And you knew this baby was brought to Police Headquarters and was fondled and played with across the street here by Officers and this man saw it? A. I don't know that the baby was sick that night.

Q. Did you know that you had a sick baby in Police Headquarters and this defendant knew it and it was used to play on him? A. Not that I know of.

Q. Do you know the purpose of bringing those children to the State Police Headquarters? A. I don't know the purpose.

Q. It certainly affected Culombe—you knew that? A. I don't know how it affected him.

Q. Well, Tuesday night he told you that was a pretty low thing to do—to bring the child into Headquarters for your Lieutenant's desire? A. You asked me that before and I don't remember him saying that.

Q. Do you deny it? A. I don't remember.

Q. When you say you don't remember, do you really mean you don't remember? A. That is exactly what I mean.

Q. You have a very poor memory. A. I do the best I can.

Q. Do you know how many times you have used in your testimony that expression "I don't remember"?

A. I haven't the slightest idea.

Q. Quite a bit. A. Well, I use it when I don't remember.

Q. It boils down to this—there are a great many things you have said or have done in your investigation where you have had to say I don't remember. A. The record shows that to be so, yes.

Q. There are a great many things you don't remember? A. That is true.

Q. This statement was signed by Culombe after five days and five nights of questioning and after being aware that his children were brought to Headquarters and after having been confronted by his wife at Police Headquarters, after having seen one of his sick children, a little child on the afternoon of the midnight when he signed the statement. That is when this statement was signed, wasn't it?

MR. BILL: Objection.

THE COURT: Sustained.

MR. McDONOUGH: Exception.

THE COURT: Sure.

Q. And coupled in addition with that is the fact that he had not had a lawyer after being presented in Police Court in New Britain and presented in court in Hartford?

MR. BILL: Objection.

THE COURT: I will sustain it. It is repetitious.

Q. He was booked on a Saturday in your State Police Headquarters on what charge, did you say? A. I said he was arrested on Saturday night on a felony charge.

Q. Wasn't he booked under this Section of the Statute, Sergeant: "Sheriffs, deputy sheriffs, county detectives, constables, borough bailiffs, police officers, special protectors of fish and game and railroad and steamboat policemen in their respective precincts, shall arrest, with-

out previous complaint and warrant, any person for any offense in their jurisdiction, when such person shall be taken or apprehended in the act or on the speedy information of others, and members of the state police department or of an organized local police department or county detectives shall arrest, without previous complaint and warrant, any person who such officer has reasonable grounds to believe has committed or is committing a felony. Any person so arrested shall be presented with reasonable promptness before proper authority." That is what he was arrested and booked on that Saturday night?

A. To the best of my knowledge that is what he was arrested on.

Q. And he was presented to any proper authority on that Saturday night of his arrest at State Police Headquarters? A. He was presented before the court.

Q. On Monday there was a Hartford Police Court in session? A. I presume so.

Q. On Monday there was a New Britain Police Court in session? A. I presume so.

Q. And he wasn't presented in any court?
A. No, sir.

Q. Instead he was held and questioned further, isn't that right? A. He was held and presented in court on Tuesday.

Q. Now, when you left Culombe's house on Coleman Drive Wednesday afternoon after the matters I have questioned you about, did Mrs. Culombe say, "Will you please see my daughter home?" A. No, sir.

Q. Did you put in a call on the cruiser telephone to the State Police barracks on the radio when you left the Culombe house? A. About what, sir?

Q. Did you put in a call? A. I don't remember. If I knew what it was about I might be able to answer that.

Q. Did you instruct Headquarters to send the little Culombe girl—the thirteen or fourteen year old girl home in a cruiser and have a cruiser pick up Mrs. Culombe and bring her into headquarters? A. No, sir.

Q. Did Lieutenant Rome do it in your presence?
A. No, sir, not that I remember.

Q. Don't you know that Culombe, after he signed the statements in the early hours of the morning on Thursday, was relieved, as you called it? A. Yes, I felt he was.

Q. He was exhausted physically? A. We were tired.

Q. And does the we include Culombe? A. Yes.

Q. Exhausted? A. Tired.

Q. At the time he signed the statement which is being offered by the State, he had got past the point where he was protesting any further that he was innocent, that is true, isn't it? A. That statement he gave wasn't the truth.

MR. McDONOUGH: I move to strike that answer.

THE COURT: The answer can go out. Read the question, Mr. MacGlashan

(The reporter read the question.)

A Yes.

Q. In other words, Culombe had given up and surrendered. A. Not entirely, sir.

Q. Well, there were little details to be washed up later on? A. Those were very big details.

Q. Well, they were big details, but anyway, he did admit being implicated in the New Britain murders?

A. Yes, sir.

Q. Then you took him to a cell and locked him up for the night? A. Yes.

Q. And that was on a Thursday—and when was he presented in Superior Court? A. Thursday.

Q. That afternoon or morning? A. It was in the morning, around noontime, if I remember right.

Q. Were you in court when he was presented, Sergeant? A. Yes, sir.

Q. When you presented him in the Superior Court you had a bench warrant for his arrest at that time, did you not—from the Superior Court? A. I think so—I am not too sure of the details. Lieutenant Rome was handling them over here.

Q. Were you here? A. I was here.

MR. McDONOUGH: I think that is all, Sergeant.

THE COURT: Mr. Bill, anything further?

REDIRECT EXAMINATION BY MR. BILL:

Q. Now, Sergeant, I show you five typewritten papers and ask you if you recognize those. Look them over, please. A. Yes, sir.

Q. And you recognize those as what? A. This is a statement we took on that same night of February 27th that was taken by Lieutenant O'Brien—typed out by Detective—that is, Lieutenant Rome's statement, and it was typed out by O'Brien and I signed the statement.

Q. Whose statement? A. A statement given to Arthur Culombe covering the Leone shooting and the New Britain shootings.

Q. That was the 28th? A. On February 27th at ten-fifty-five P.M.

Q. Was that when it was commenced or fineshed? A. That is when it would have been started.

Q. I think it has been testified—do you know whether the various crimes of which there have been statements were reduced to separate statements? A. I was of the opinion they were.

Q. Statements of this sort? A. That is right.

Q. This statement here—that purports to be a combination of the Leone and New Britain situations, isn't that so? A. That's right, sir.

Q. And from the reading of that statement do you find that the New Britain situation followed immediately after the Leone situation? A. That is right.

Q. On the same day? A. The same evening.

Q. You appear there as a witness? A. Yes, sir.

Q. And who appears there—who else?

A. Samuel Rome, Vincent O'Brien and Edward Matus.

Q. And that is the statement concerning the New Britain affair that you signed that night? A. Yes.

Q. The Culombe affair? A. That's right, sir.

Q. And it is joined in with the Leone affair? A. Yes, it is.

Q. I show you State's Exhibit Z for identification, and I believe that was presented to you on the witness stand on Friday? A. Yes, sir, it was.

Q. Would you look that over? A. I did.

Q. First off, when that was first presented to you as being the statement of Arthur Culombe, did you testify you had been a witness to the signature of Arthur Culombe?

A. I did. I stated I signed it.

Q. And what do you find on that statement, Z for identification—do you find your name on that? A. No, my name wasn't on there.

Q. You were later asked to look over the statement for identification Z and determine whether that was the statement of Arthur Culombe, and did you read it?

A. Yes, sir.

Q. And do you find it to be? A. This is what Culombe told us that night about the New Britain shooting.

Q. And have you compared it since you were on the witness stand and seen the other paper?

MR. BILL: May I have that marked?

THE COURT: Unless there is objection. It isn't going to be offered?

MR. BILL: Merely for identification.

THE COURT: Yes, but I thought in order to keep my bookkeeping straight I would mark it Z-1 for identification.

MR. BILL: Well, I don't know, Your Honor. This is going to be offered with something cut out of it, so I want to have it in evidence.

MR. McDONOUGH: I think it should be offered as a complete statement.

MR. BILL: If I offer the other, there will be no objection?

MR. McDONOUGH: There will be an objection but not on that basis.

MR. BILL: You mean if I offer that state's exhibit Z there will be no question but what that is an authentic copy?

MR. McDONOUGH: No.

MR. BILL: An authentic copy of this statement I am now pressing for identification?

MR. McDONOUGH: That's right. We can eliminate the other one completely.

THE COURT: I will have it marked Z-1 for identification.

(A statement of Culombe marked State's Exhibit Z-1 for identification.)

Q. Did you notice any change in it at all in your comparison between State's Exhibit Z and Z-1 for identification? Did you compare the two? A. Well, one deals with the Leone and the New Britain affairs and this one deals with New Britain.

Q. I am not referring to that. Specifically, one reference of the time in the original statement— A. The original statement?

Q. That is State's Exhibit Z-1. What does that say as to the time of the New Britain affair? A. The time when we took it, you mean?

Q. No, the time of the incident, when it occurred— the Leone incident.

MR. BILL: Mr. McDonough, what I am trying to develop here — I may be doing it the hard way, but I am not representing that this was taken out and is a verbatim recitation of the New Britain affair. There were references here to the Leone affair and I don't want to get them confused. There is a reference in here in Z-1 where it says that they went to the Leone store at six o'clock and then

they asked about the New Britain and they said it was about an hour or an hour and a half later. That couldn't be left in the substituted statement—Z. That was changed to between seven and seven-thirty.

MR. McDONOUGH: That they arrived in New Britain?

MR. BILL: Yes. It originally said about an hour or an hour and a half after the Leone matter, which was six o'clock. It is just a matter of a slight change in the language. I'm just pointing it out to you that there are those changes that would have to be made. I wanted to point this out so that you would know exactly what I am trying to get admitted.

MR. McDONOUGH: I have to make a decision on this point and I think I should have a little more time to consider these things. I would like to look through it.

THE COURT: I think you should.

MR. McDONOUGH: Could we take our noon recess now until two o'clock and I can work on it in the meantime?

MR. BILL: I was going to develop through him all of this matter, but I have pointed out the changes. I think Mr. McDonough should have an opportunity to look them over.

THE COURT: All right. You may escort the accused from the courtroom.

Could I see counsel at the bench for a moment?

Recess, Sheriff, until two o'clock.

(Recess at 12:35 P.M.)

JUNE 11th, 2:00 P.M.

THE COURT: Bring up the accused, Sheriff.

(Accused present.)

(Jury and alternates not present.)

THE COURT: Are you ready to proceed, gentlemen?

MR. McDONOUGH: If Your Honor pleases, I have read over State's Exhibit Z-1 for identification and have compared it with State's Exhibit Z, and it appears to be just a continuation and a confinement of the statement to New Britain. I think the proper procedure to follow would be to let Exhibit Z stand for identification and completely eliminate Exhibit Z-1, because there would be a quarrel over the admission of Z-1 very definitely, and Your Honor might rule one of several different ways. You might exclude it entirely or Your Honor might rule that part of it, such as the picture that we disputed, be admitted in evidence, and then the jury would only be getting something that was clipped and it might leave a wonderment in their minds. So I would suggest that the offer be confined to Exhibit Z, without any comment to the jury. The testimony is in. It has been identified.

THE COURT: Let's proceed that way.

MR. McDONOUGH: Is that satisfactory, Mr. Bill?

MR. BILL: Yes, but for the record, Your Honor, I do want to put in evidence as to how Exhibit Z came about.

THE COURT: There is no objection to that, I take it.

MR. BILL: Because we haven't any evidence yet, because Officer Paige didn't know about it, as to its being read back and signed and all that type of thing.

MR. McDONOUGH: Of course, it is all before— I am sorry, Mr. Bill.

MR. BILL: That's why I would like to continue through with my witnesses and produce them on these

statements, so if you find that he is doing it that will be the purpose.

THE COURT: Exhibit Z-1 for identification will remain Z-1 for identification only.

MR. BILL: That's right.

THE COURT: But it will be Z that we are talking about eventually?

MR. McDONOUGH: That the offer will be made on, I assume.

MR. BILL: Yes, I want to build a foundation for it in the record. I don't want Sergeant Paige any further. He was on the stand when this matter came up.

THE COURT: Do you have anything further with him, Mr. McDonough?

MR. McDONOUGH: At this time I don't, but I want him in the courtroom.

THE COURT: Oh, yes.

MR. BURKE: Your Honor please, do I have permission to question Sergeant Paige?

THE COURT: I wouldn't see at this time where there would be any reason for it.

MR. BURKE: I make the request on the basis that all of this is one scheme or plan to extricate the confessions from both and that each of the officers questioned both men. I don't know how much questioning Sergeant Paige did of my client, and when it comes time to question another officer he doesn't know facts which the other one does know.

THE COURT: There is no offer as yet of any confession in your case, and this, of course, as you well know, is on the question of whether or not I will admit this par-

ticular confession which is now marked Exhibit Z for identification. At this time I will deny you the right to examine. That isn't any precedent for what I may do if and when this should arise before the jury, but for now I see no point in your cross examining.

MR. BURKE: May I have an exception?

THE COURT: Certainly. Call your next witness, Mr. Bill.

MR. BILL: Lieutenant Rome.

SAMUEL ROME, having been previously sworn was recalled and testified as follows:

THE COURT: Sit right down, Lieutenant. You have been sworn.

DIRECT EXAMINATION BY MR. BILL:

Q. Lieutenant Rome, my recollection is that when you were last on the witness stand I brought your testimony up to the time of your return from the trip to Culombe's house? A. That is correct.

Q. And up to the time when a statement was made by Culombe? A. Up to that time, yes, sir.

Q. Now, continuing—and that was all before the jury. Now, I wish to continue from there on. Will you tell us what occurred after you returned from Culmobe's house on that Wednesday afternoon, and include in there about what time you got to headquarters?

A. I was present during the trip to the house. Do you want after the return or to the house and return?

A. I think you explained what happened on the way down and at Culombe's house, did you? A. No, sir.

Q. All right. Going back to—did you testify at all as to Wednesday? A. Not Wednesday afternoon.

Q. Commencing on Wednesday afternoon did you take part in the investigation of the Culombe case?

A. I did, yes, sir.

Q. And at what time about did you enter into the picture that day? A. At about two-thirty, quarter to three.

Q. And under what circumstances? A. Detective Sergeant Paige and Detective Murphy were in the interrogation room talking to Arthur Culombe.

Q. And what did you do? A. I entered the room after they had been there some time.

Q. And when you entered the room what occurred?

A. I talked to Culombe.

Q. Did the others remain, the other two, Murphy and Paige? A. They did.

Q. And what was the talk while you were present?

A. Culombe agreed to—

MR. McDONOUGH: I object to what Culombe agreed to. That's a conclusion.

THE COURT: I will sustain it. It may go out.

MR. BILL: I don't claim it.

Q. What did he say or you say, rather than agreed?

A. Culombe said that he would take us to his home and show us a gun, and I instructed Detective Murphy, Sergeant Paige, Detective O'Brien to accompany us, and enroute to Culombe's home . . 20 Coleman Drive I was talking to Culombe and he started to admit—

MR. McDONOUGH: I move to strike that out, "He started to admit."

MR. BILL: I don't claim it.

THE COURT: It may go out.

A. He told me in the presence of the others, as a result of my questioning, that he was involved in the New Britain killings. I immediately asked Detective Murphy to take the wheel and permit Detective O'Brien to take shorthand notes on this conversation.

Q. And had O'Brien been driving up to that point?
A. He had been driving the car.

Q. And whether or not a change was made?
A. It was.

Q. And whether or not notes were made?
A. They were.

Q. By Detective O'Brien? And whether you can—that's withdrawn. Will you recall to the best of your ability, regardless of the notes of O'Brien as to what you remember of the conversation there in the car from that point on?

A. Arthur Culombe said that he and Joseph Taborsky were riding to New Britain the night of December 15th. The weather was bad and the roads were slippery. They were searching for a place to hold up and they passed a gas station and Taborsky told him to turn around, that they would take that station, and that Culmobe, who was driving his Oldsmobile, 1949 Oldsmobile, turned around and drove into the station and that an attendant came out and served him with some gasoline and that Taborsky went—

MR. BURKE: I am going to object to this, Your Honor please, as not admissible.

THE COURT: I will overrule the objection.

MR. BURKE: May I have an exception.

THE COURT: Surely, go ahead.

A. Taborsky went inside the station and Culombe paid the attendant two dollars and then Culombe remained outside while Taborsky put a gun on this man and brought him into a room with a lot of cans and a boiler, I believe he thought, and that Culombe said that he heard a shot and only Taborsky came ont of this room. Taborsky started to search the gasoline station drawers and cash register when a car drove up in which was a man and he thought a little boy, and Culombe made an attempt to service this car, act like a station attendant. Taborsky came out and asked him if he was crazy, that this man would have his marker number, and Taborsky, according to Culombe, put a gun on this patron, brought him into the men's room in the station, and he heard two shots.

MR. BURKE: Your Honor please, may the record show my objection on all of this testimony?

THE COURT: It may, and it is not being admitted against Taborsky at all. Whatever relevance it has it is on the question of the admissibility of Exhibit Z for identification.

MR. BURKE: May I have an exception, Your Honor?

THE COURT: Surely. Go right ahead.

A. They both—Taborsky came out of this men's room alone and they both searched the station and left.

THE COURT: I want to have the last part of that answer read, but I will wait until Mr. McDonough finishes his errand.

MR. McDONOUGH: Thank you, Your Honor.

THE COURT: I want to have about the last half of that read.

(Testimony repeated by reporter as follows: "Culombe made an attempt to service this car, act like a station

attendant. Taborsky came out and asked him if he was crazy, that this man would have his marker number, and Taborsky, according to Culombe, put a gun on this patron, brought him into the men's room in the station and he heard two shots.")

Q. Anything other than that, Lieutenant?
A. We continued on to Culombe's home—

Q. Does that finish the statement concerning the New Britain matter? A. That I can recall right now.

Q. And all during this time you were traveling along towards Culombe's house, is that right? A. Yes sir.

Q. And ultimately you reached there? A. Yes, sir.

Q. And anybody there when you got there?
A. Mrs. Culombe.

Q. And what did you do, and the others?
A. We went to the bathroom of that home as pointed out to us by Arthur Culombe.

Q. When you got there did he point out some things there? A. He said that he had hidden behind the medicine cabinet a brief case in which we would find a gun and blackjacks.

Q. And what did you do, if anything?
A. I had him removed from the room and with the assistance of another officer I removed the medicine cabinet and found a brief case there that contained a gun and blackjacks.

Q. What did you do—before I get there, what do you mean, it came from in back of the cabinet?
A. The medicine cabinet was removed completely and in the wall I removed this brief case.

Q. The wall was hollowed out, was it? A. Yes, sir.

Q. What did you do after that? A. I took possession of these items, continued to search through the home and in a little tin box in a safe compartment of the high boy in Arthur Culombe's bedroom I found some pistol grips, revolver grips, black, a cylinder pin, a main spring and a screw which would fit these revolver grips. I took possession of them.

Q. Then what did you do? A. We left the house and Culombe took us to a lot, a swamp, at the intersection of Newfield and Reed, I believe, I am not certain of the street—where he told us—it isn't Reed. It is off Newfield Street. The name will come to me where he told us that he threw the two guns that Taborsky used on the New Britain job. An officer was stationed there with instructions to—

MR. McDONOUGH: I object to the instructions to the officer.

MR. BILL: I don't claim it.

THE COURT: It may go out.

A. He then took us to the intersection of—the corner lot of Reed Street and Newfield, I believe, where he pointed to a swamp and he said "You will find the raincoat that Taborsky used, in that swamp." Detective Murphy made a bridge into the water and recovered the raincoat.

Q. Go ahead. A. He then took us to Chandler Street, where he said that he threw the wallets and identification papers from the wallets from the New Britain job.

Q. Anything further? A. We went to East Hartford and then—

Q. You went where? A. East Hartford. Then we returned to the barracks, I believe.

Q. Was that on another matter, to East Hartford?
A. Yes, sir.

Q. Something that he had told you about, some other incident? A. Yes, sir.

Q. Nothing to do with the New Britain affair?
A. No, sir.

Q And then you returned where? A. To the barracks.

Q. And who was with you other than the police officers? Arthur Culombe, was he there? A. Yes, sir.

Q. Mrs. Culombe? A. No, sir.

Q. And about what time did you get back to police headquarters? A. Probably shortly after six or thereabouts.

Q. And what did you do at that time?
A. I took him to Major Riemer's office, where Commissioner John Kelly was at the time, and Culombe repeated the confession of the New Britain job, and others.

MR. McDONOUGH: I move to strike that out.

THE COURT: It may go out beginning with "repeated the confession".

Q. What did he repeat? A. He told—

MR. McDONOUGH: I object to that. It is only the same thing as was stricken out.

MR. BILL: No, I understand that it was stricken because we used the word "confession".

THE COURT: That is correct.

MR. BILL: Now I am asking if he did repeat something. I claim it.

MR. McDONOUGH: I object to it. "What did he say" is the proper question.

MR. BILL: I am not going to let you frame my questions.

MR McDONOUGH: Of course the State's Attorney isn't, but the proper question is, "what did he say?"

THE COURT: Read the question, Mr. Burke.

(Question repeated by reporter): "What did he repeat?"

THE COURT: I will allow it. Go ahead, Lieutenant.

A. He repeated his statement made to Detective Murphy, Detective O'Brien, Sergeant Paige and myself earlier.

MR. McDONOUGH: I object to that and move to strike it out.

THE COURT: I will strike it out.

Q. You have just told us what was said by Culombe in your presence? A. Yes.

Q. On the way down to Culombe's house, whether or not that was repeated?

MR. McDONOUGH: I object to that.

MR. BILL: I claim it.

THE COURT: I will allow him to answer it "yes" or "no".

THE WITNESS: Could I have that question?

THE COURT: Read it, Mr. Burke.

(Last question read by reporter.)

A. It was.

Q. And after you—that's withdrawn. Ultimately you left the presence of Commissioner Kelly and Major Riemer, did you not A. Yes, sir.

Q. And where did you go then? A. I think that we had supper and then went upstairs to the barracks.

Q. Does "we" include Culombe? A. That's who I have reference to, yes, sir.

Q. Now, after supper what took place? A. I believe we reduced to writing the statements that Culombe had made previously.

Q. Well, now, as I understand it, going to New Britain he had talked about the New Britain affair?
A. Going to—

Q. Going to Culombe's house? A. Yes, sir.

Q. Had it been pretty well confined to that? Let me put it this way. All during the time when you left the police headquarters to go to Culombe's house, until you returned to headquarters, was there anything other than the New Britain affair discussed with Culombe? A. Yes, sir.

Q. And you returned you said you had supper and had all these incidents which had just been covered with Culombe—the new talks with Culombe—or was that continued? A. They had been touched on—probably not fully covered. I am of the opinion they were continued then in detail for the sake of separate statements covering each incident.

Q. Did you ultimately have several written statements from Culombe that evening covering all of these matters? A. That night and into the morning.

Q. And when would you say that started—the question and answering for the purpose of written statements

—that is, covering all the incidents regardless of which started first? A. Eight or nine p.m.

Q. Now, did you ultimately question Culombe for the purpose of a statement concerning the New Britain affair? A. Yes, sir.

Q. Did he make a written statement concerning the New Britain affair? A. He made a statement covering it.

Q. Just answer the question, please. A. Yes, sir.

Q. I show you State's Exhibit Z-1 and ask you if you recognize that—look at the signatures and look it over? A. Yes, sir.

Q. What does that represent? A. That is a statement we took from Arthur Culombe that night.

Q. And that covers what? A. The New Britain affair and the Leone shooting.

Q. Confined to those two on that statement? A. Yes, sir.

Q. They are both covered there? A. Yes, sir.

Q. And what time did that start? A. That started —the reading and the writing until ten-fifty-five p.m.

Q. Who reduced it to writing? A. Detective O'Brien.

Q. How was it done — in what manner? A. I would ask Arthur Culombe what he did when he first left his house, with whom he was with, and so forth, and he would answer and I would try to get it in a statement form to express that which he was trying to tell us, and Detective O'Brien would type that up and then I would ask him another question.

Q. You did this piece by piece and he put it on the typewriter? A. Yes, sir.

Q. That is Culombe's signature in your presence on Exhibit Z-1 for identification? A. Yes, sir.

Q. Now, do you recognize State's Exhibit Z for identification? Look that over. A. Yes, sir, I did.

Q. What is that? A. That is a statement that was taken from the original—State Exhibit Z.

Q. Z-1? A. Z-1, leaving out the Leone affair.

Q. How did that come about? A. I instructed Policewoman Doris Murtha—

Q. Before that, what had you done with State's Exhibit Z-1 for identification, which is the Leone and New Britain statement? Had you shown that to somebody? A. I showed it to Major Riemer.

Q. Without giving us the conversation, as a result of your talk with Major Riemer, did you do something? A. Yes, sir.

Q. What did you do? A. I had the two crimes separated on a paper.

Q. Did you supervise the separation or did you direct somebody? A. I directed someone, yes.

Q. Who did you direct? A. Policewoman Doris Murtha.

Q. And she is a typist? A. Yes.

Q. A stenographer? A. She is a Policewoman and she knows how to operate a typewriter.

Q. When was State's Exhibit Z actually done, do you know, by Miss Murtha—that is, this later one? A. That was done the following Sunday, I believe.

Q. I think you said the purpose was to separate the crimes? A. Yes, sir.

Q. Whether or not you also compared Exhibit Z, and after Z-1 for identification, as to whether that Exhibit Z is an exact copy of the New Britain affair, and if it is, it is drafted in that particular form? A. I compared it. It contains the material information given to us by Culombe. There were some changes made in this — the time, for instance—we tried to figure the time he started to talk about the affair in New Britain and get the accurate time on it in the statement.

Q. You got one time given you in the version of the Leone affair where it talked about when they went to the Leone place—an hour or an hour and a half later he says he went to the place. You couldn't use Leone's name so you used seven or seven-thirty o'clock, is that right?

A. Yes.

Q. That was your purpose in eliminating the word Leone? A. Yes.

Q. And that was for court purposes? A. Yes, sir.

Q. Was there any other change made for that same purpose? A. The time it was taken—12:30 a.m. The original time, I believe, had ten fifty-five p.m.

Q. On February 27th? A. Yes.

Q. And that is correct as you look it over—showing you Z-1 for identification? A. Yes, sir.

Q. How come that date — on Z — February 28th? Twelve-thirty? A. We approximated the time when he started to talk about the two affairs and started to type it around 10:55. When he got to the New Britain affair we approximated the time as 12:30 a.m.

Q. In other words, when you were preparing that Z you estimated the time the Leone affair commenced as from 10:55 to 12:30 and you changed that? A. Yes.

Q. And then you commenced at 12:30 on February 28th on the New Britain affair? A. Yes.

Q. And you were talking to the man for sometime before that?
A. Yes.

Q. Does that explain the time on the first one—Z for identification? A. Yes.

Q. How come that 8 is in pen? A. Well, of course, we had gone into another day, and reading back we started at 12:30 a.m. and we would have to change that to an eight —on that February.

Q. And who changed that, did you? A. Doris Murtha.

Q. When was that Z for identification completed, if you remember, that day—Sunday? A. It was typed—the typing was completed by Miss Murtha that day.

Q. On March 3, Sunday? A. Yes, sir.

Q. And did you take possession of it? A. Yes, sir.

Q. And did you do something with it? A. I did, I took it to the Hartford County Jail.

Q. Were you accompanied by anybody? A. Detective O'Brien.

Q. And when you got there did you see somebody?
A. I talked with Culombe.

Q. What did you say to him? A. I showed him —explained the statement.

Q. Wait a minute, when you say that—what do you mean? A. Z.

Q. Z-1? A. No, Z.

Q The new one? A. Yes.

Q. Tell us in your own way? A. I told him I had taken the crime committed in the Leone matter and from that separated it and this statement which was contained about the New Britain crime. I read it aloud to him and he agreed it was substantially the same. Then I asked him to sign it and he did.

Q. In whose presence was it signed? A. Detective O'Brien.

Q. And yourself—you appear there as a witness? A. Yes.

Q. Is that Arthur Culombe's signature there taken in your presence? A. Yes, sir.

Q. And did he refuse to sign it at any time? A. No, sir.

Q. Was he hostile or cooperative? A. Cooperative.

MR. BILL: Your witness.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. What time on Sunday did you bring the statement up to the jail to change it? A. I am of the opinion it was sometime in the afternoon.

Q. About what time? A. I don't believe I took it up on Sunday. I think it was Monday. It was brought up sometime in the forenoon.

Q. Then your testimony was incorrect when you said Sunday. You say now you went on a Monday. You were wrong when you said it was on Sunday? A. I don't know—my intention—

Q. You don't remember that you said it was Sunday? A. I don't recall.

Q. Can't you remember your testimony back that far? A. I meant to say—

Q. Don't you remember your testimony of just a couple of moments ago? A. To the best of my recollection I said Monday.

Q. You said Sunday. Do you want to change it?

MR. BILL: I suggest it be read back.

MR. McDONOUGH: Yes, may we refer to the record.

THE COURT: Yes, read back the questions and answers that had to do with the typing in the afternoon, whether it was on Sunday or Monday—and we can find out what happened.

(The reporter read back the witness's testimony on direct examination.)

THE COURT: Apparently he didn't say either.

Q. It was Monday—what time on Monday?
A. Sometime in the afternoon.

Q. You knew then he had a Court appointed attorney, didn't you? A. I was aware that he did.

Q. You had talked to his attorney, hadn't you?
A. Yes, sir.

Q. And you talked to him on Sunday afternoon?
A. Yes, sir.

Q. Didn't he tell you and Captain Schwartz and Mr. Matus in the Captain's office on Sunday afternoon to let Culombe alone and transfer him to the County Jail and not to bother him anymore? A. I don't take my orders from Mr. McDonough.

THE COURT: Please, Lieutenant, don't let me caution you again. Don't encourage me to lessen the attendance in the courtroom. That answer may go out. Read the question.

(The reporter read the question.)

THE WITNESS: Yes, sir.

Q. You transferred him to the jail, didn't you?
A. Yes.

Q. I told you to release him and transfer him to the jail and that I was one of the attorneys appointed by the Court? A. Yes.

Q. And you knew it was my right to tell you to do that? A. Yes.

Q. But you didn't let him alone. You went up there to the jail and had him sign a paper? A. Yes.

Q. And in violation of my order you had him sign a paper now being offered in evidence?

THE COURT: It is pretty clear what he did.

MR. McDONOUGH: Yes, Your Honor.

THE COURT: Why go into it?

MR. McDONOUGH: I want the record to show that this paper which they seek to introduce as a confession was done without my knowledge and in deliberate violation of his attorney's instructions.

THE COURT: But that is in the evidence as of now.

MR. McDONOUGH: May I have an answer?

THE COURT: No, I will sustain the objection.

Q. Why did you do that when I asked you not to?
A. I was doing my duty to the people of the State of Connecticut.

Q. Didn't I tell you and Captain Schwartz and Mr. Matus that this man had certain rights and among them he

was not to be asked any more questions? A. Not in those words.

Q. What did I say? A. You want this man transferred to the County Jail and that request was complied with almost immediately.

Q. And what else? A. You didn't want him bothered anymore.

Q. What else? A. That is all I recall.

Q. Don't you call that bothering him? A. No, sir.

Q What did you consider I meant by not bothering him anymore? A. Not to interrogate him any further.

Q. Yes? A. I guess that is all.

Q That is all you thought I meant. You didn't ask my permission to have him sign that paper? A. No.

Q. You recognized the fact that he had rights that I represented him and that is the reason you asked by permission to have him brought back here? A. You were present there at that time.

Q. You asked my permission and I gave it to you? A. Yes.

Q. To do that one thing. A. Yes.

Q. I told you otherwise to let him alone? A. Not to bother him.

Q. Didn't you try to get my agreement to have him let out of the County Jail, saying he was afraid of Taborsky and he would be brought to headquarters here?

THE COURT: I don't think you mean that.

Q. Didn't you try to get me to agree to have him remain at State Police Headquarters? A. No, I may

have suggested it because Mr. Culombe wished to do it that way—remain at the barracks rather than at the jail.

Q. Didn't I say to you get him up to the jail where he belongs? A. Yes.

Q. And you told me you would comply with my request? A. I did.

Q. Why didn't you tell me about that statement? A. I didn't think it was necessary.

Q. I was his lawyer? A. Yes.

Q. And you knew that? A. Yes.

Q. I told you I was appointed by the Court and you were aware of that. How long have you been in Police work? A. Better than nineteen years.

Q. How long have you been in the Detective Division? A. About seventeen years.

Q. And with that background of experience you want to say you did not know it was necessary, knowing what you knew of my standing in the case? A. I felt then and feel now it was not necessary.

Q. You do. That is in line with all of the conduct you used in obtaining this so-called confession of Culombe.

MR. BILL: Objection.

THE COURT: Sustained.

Q. You have disregarded all the known rights of the defendant here from the time you took him into custody? A. That is not the truth.

MR. BILL: Objection.

THE COURT: The answer is in and I will let it stand.

Q. But he asked for an attorney for five days?
A. He didn't ask for an attorney for five days.

Q. Lieutenant, you testified that he asked for an attorney on Saturday when you picked him up? A. That is right.

Q. And asked for an attorney the day after?
A. No, sir.

Q. And he didn't get one? A. He didn't ask for one.

Q. He didn't get one? A. He didn't ask for one.

THE COURT: This argument isn't doing me any good. When you are asked a question just answer it unless you don't understand it and then let us know.

Q. He asked for an attorney on Saturday and did not get an attorney until one was appointed by this Court, isn't that correct? A. That is correct.

Q. When he did get an attorney appointed by this Court you continued to disregard the attorney in the case in obtaining a signature to statements? A. Yes.

Q. First, you disregarded getting an attorney and then you disregarded the attorney himself?

MR. BILL: I object.

THE COURT: I will sustain it.

MR. McDONONGH: If your Honor please, that goes to the admission of this so-called confession. I claim it.

THE COURT: I sustain the objection.

Q. Lieutenant, you had a reason for not asking me if he should sign that statement? A. I think I did.

Q. What was the reason? A. I could do better without you.

Q. What do you mean by that? A. The man was cooperative. He showed his intention to cooperate and stated so in this courtroom. I needed his cooperation and got it.

Q. You were afraid if you asked me you wouldn't have got the statement, isn't that true? A. I had my ideas along that line.

Q. That he wouldn't sign this offer Z? A. I felt you would say no.

Q. Now, this State's Exhibit Z for identification was typed on Sunday by Miss Murtha? A. Yes, sir.

Q. And that was taken from the larger statement which was State's Exhibit Z-1, wasn't it? A. Yes.

Q. And the mistake that it was made on Sunday and inked over and the date changed from seven to eight. Was that mistake made while it was being typed? A. No, I think it was corrected after it was removed for the typewriter when it was realized.

Q. The mistake was made on Sunday—that is what I am driving at. How much time did you spend at the jail when you brought State's Exhibit Z up to Culombe to be signed? A. I don't know—I would consider about half an hour.

Q. About half an hour, Lieutenant? A. Probably about half an hour.

Q. And Detective O'Brien was with you?
A. Yes, sir.

Q. Now, in the statement, State's Exhibit Z he did —question withdrawn. Did Culombe tell you that they went into the New Britain gas station at about seven or seven-thirty p.m.? A. That is my impression, yes.

Q. Did you say anything to him about that time being wrong, before he signed the statement, either Exhibit Z or Exhibit Z-1? A. I may have asked him to give that time element more thought.

Q. Well, did you? A. I have no definite recollection of that now.

Q. Don't you know as a matter of fact the shooting took place before six o'clock? A. I was informed.

Q. When were you informed of that? A. When I first started this investigation, on December 18th.

Q. And as a matter of fact you know, don't you, that the shootings did take place at about six o'clock, that the bus driver came on the scene at about five after six? You know that as a fact, don't you? A. Yes.

Q. And yet you have in the statement signed by Culombe that they went into the gas station at seven or seven-thirty p.m. A. That's the statement that he gave me.

Q. That's the statement that he gave you?
A. Yes, sir.

Q. Now, why didn't you straighten him out on it. You knew better, didn't you? A. This was his statement, Mr. McDonough. Not mine.

Q. That was his statement? I thought it had been testified here that this statement was built up from things that he told you and you put in your own words?
A. That is correct—pardon me—

Q. These are not—

THE COURT: Wait a minute, Mr. McDonough. Did you want—

THE WITNESS: I answered that before I heard the last part. May I have it read?

THE COURT: Read it, Mr. Burke.

(Last question read by reporter.)

A. Yes, to express what he had in mind.

Q. Your language, summarizing what he told you, that is what it amounts to, isn't it? A. Yes, sir.

A. I don't know, but it would have been around midnight, of February 27th.

Q. Was it between, say, twelve and twelve-thirty, between twelve and one o'clock? A. It was around midnight.

Q. I think that Sergeant Paige testified, as far as he could remember, about 12:30. There wouldn't be too much of a difference between you two men, would there, on that? A. There could be. This is the best of my recollection. Yes.

Q. Now, that was the aftermath of a conversation that Culombe had with Detective Murphy and Sergeant Paige, wasn't it—that is the trip to Culombe's house?

A. I don't understand that question.

Q. Sergeant Paige and Detective Murphy were talking to Culombe in a room in State Police Headquarters, weren't they? A. Yes, sir.

Q. When you first came into the picture?

A. Yes, sir.

Q. About two-thirty or three you entered the room where Sergeant Paige and Griffin were talking to Culombe, as I have copied your testimony? A. Yes, sir.

Q. And Culombe said that he would take you—that is take the police to his home and show you a gun or guns, is that correct? A. It is.

Q. And then you went to his home? A. Yes, sir.

Q. Now, what time did you get to his home?
A. Shortly before four.

Q. And who was in his home on Coleman Drive when you got there? A. Mrs. Culombe, and I believe their youngest daughter, Sandy.

Q. And how old was Sandy? A. I am told that she is about five years old.

Q. Sandy was sitting on the couch, is that true?
A. I don't remember.

Q. Well, she was in the livingroom? A. I wouldn't remember that.

Q. Well, were all the people gathered together in the livingroom with the exception of the time that you men were searching for guns and blackjacks or weapons?
A No.

Q. There was a conversation between Culombe and Mrs. Culombe, wasn't there? A. There could have been.

Q. Well, if there was a conversation you would have heard it, wouldn't you? A. No. I was busy in the other part of the house.

Q. Was Miss Murtha on that trip with you?
A. No, sir.

Q. Was Miss Murtha present at any conversations between Mrs. Culombe, his wife—between Mrs. Culombe, Culombe and yourself? A. I am of the opinion that she was present at every time when I talked with Mrs. Culombe.

Q. When you walked into the room on Wednesday afternoon where Sergeant Paige and Detective Murphy were talking to Culombe, how did he appear to you?
A. Will you explain that question? I don't understand it.

Q. I mean, physically and mentally, how did he look? How did Culombe look to you when you walked in when Detective Murphy and Sergeant Paige were talking to him?

A. I still don't understand your question.

Q. Well, wasn't he upset, nervous? A. He was nervous.

Q. Were you there during any of the questioning by Sergeant Paige or Detective Murphy? A. Yes, sir.

Q. How long a period of time were you there?

A. Fifteen or twenty minutes.

Q. Did you hear Culombe ask for Mr. Bill?

A. No, sir.

Q. Well, did you hear him say anything about Mr. Bill?

A. He said—he told me that he would like to get a copy of the statement, of his statement, to Mr. Bill to show his cooperation.

Q. Who told you that? A. Arthur Culombe.

Q. Didn't Arthur—well, Culombe did talk to you then, about seeing the State's Attorney, didn't he?

A. Not seeing the State's Attorney. About the State's Attorney being aware of this cooperation.

Q. Wasn't there talk between yourself and Culombe about Mr. Bill, and then it went on to the fact of bringing a representative of the State's Attorney's office over to State Police Headquarters? A. No, sir.

Q. A representative of the State's Attorney's office did come to State Police Headquarters, didn't he?

A. He did.

Q. When the statement was being taken? A. That was later in the day, yes, sir.

Q. That was Mr. Matus? A. That's right.

Q. And how did he happen to come to State Police Headquarters? A. I phoned him, phoned his office. I wanted to let him know the progress that we were making on the case, and invited him in.

Q. Then there was a conversation that was started by Culombe about the State's Attorney's office, and after that conversation a representative of the State's Attorney's Office did come into the room? A. Not as a result of it.

Q. No, but I said after. After that conversation a representative did come into the room? A. Later in the day.

Q. Yes? A. Yes, sir.

Q. And it wasn't Mr. Reardon, was it?
A. It was not.

Q. Mr. Reardon's name was mentioned by Culombe, though, wasn't it? A. It could have been, Mr. McDonough.

Q. Didn't Mr. Culombe say that he knew Mr. Reardon, that he respected him and that he wanted Reardon if Mr. Bill couldn't come over? A. No, sir.

Q. Didn't Lieutenant Paige come to you and tell you that Culombe, before he would make a statement, wanted Mr. Bill? A. No, sir.

Q. Didn't Sergeant Paige tell you anything about a request that Mr. Bill look at the statement—a request being made by Culombe? A. No, sir. I talked with Culombe and the request was that he not be confined in the same jail with Taborsky if he cooperated.

Q. Now, Lieutenant, the question was about Mr. Bill. Not about Taborsky.

MR. McDONOUGH: May the last question be read, Your Honor?

THE COURT: The last question may be read, Mr. Burke.

Q. (Repeated by reporter) "Didn't Sergeant Paige tell you anything about a request that Mr. Bill look at the statement—a request being made by Culombe?"

A. No, sir, I don't recall that, Mr. McDonough.

Q. In other words, you don't know whether or not Culombe talked it over with Sergeant Paige before you came into the room, do you? A. I do.

Q. Oh, you do know that Culombe talked about Mr. Bill to Sergeant Paige? A. That wasn't your question.

Q. It is now. A. Which one do you want me to answer?

Q You did answer the other. You said "I do." You do know that he talked to Sergeant Paige about Mr. Bill?

A. I didn't answer that question yet, Mr. McDonough. I answered the previous question.

MR. McDONOUGH: May the question before this be read?

THE COURT: Read it, Mr. Burke.

(Repeated by reporter.) "In other words, you don't know whether or not Culombe talked it over with Sergeant Paige before you came into the room, do you?"

Q. You do know?

A. I could listen and hear what was going on, and I know that there wasn't. I don't remember any such conversation.

Q. You didn't hear any such conversation?

A. That's right.

Q. Did Sergeant Paige tell you that Mr. Bill's presence was desired by Culombe? A. No, sir.

Q. Did Sergeant Paige tell you that Mr. Bill had been discussed by Culombe before he signed the confession? A No, sir.

Q. Sergeant Paige has testified, Lieutenant, that a request regarding Mr. Bill was made to him. Do you know of that request having been made to him? A. No, sir.

Q. But anyway, you did do something as a result of Mr. Bill's name being mentioned, didn't you? A. No, sir.

Q. Didn't you leave the room for a while and return and tell Culombe "I don't know how to go about this, I tried to get him on the phone and I went over"—meaning over here—"but he is not there." Didn't you say that to Culombe? A. No, sir. That is not the truth.

Q. That is not the truth that you tried to get the State's Attorney on the phone, is it? A. That also is not the truth.

Q. And it is not the truth that you came over to this building to see if the State's Attorney was here, did you?
A. I never came over to this building for that purpose.

Q. Did you come over to this building?
A. Subsequently, for court, for trial hearing, yes.

Q. That afternoon? A No, sir.
Q. I am not talking about a trial. A. The answer is "no".

Q. You didn't come over to this building at all that afternoon? A. That is right.

Q. Or that night? A. That is right.

Q. All of this reference to Mr. Bill, the questions and answers and talks, took place before you left the barracks to go to Culombe's home, that's so, isn't it? A. Yes, sir.

Q. And then when you got down to his house, Culombe's house, Culombe talked to his wife, didn't he?

A. I want to correct that previous answer, in relation to Mr. Bill, I don't know of any. That's what you are telling me.

THE COURT: No, don't bother telling him what he is telling you. Just answer the question. Do you want to correct your answer to that?

THE WITNESS: I would like to have the question read.

THE COURT: Will you read it, Mr. Burke?

MR. McDONOUGH: There is no question pending Your Honor.

THE COURT: That is true, but there was the question which was asked about all this conversation and what not taking place before they left the barracks, and he answered, and he indicated a desire to either clarify or correct that answer. If he wants to he may do it. Read the question, Mr. Burke.

(Question repeated by reporter) "All of this reference to Mr Bill, the questions and answers and talks, took place before you left the barracks to go to Culombe's home that's so, isn't it?

THE COURT: Will you answer that now?

A. I can't. That has to be broken down.

THE COURT: Go ahead.

Q. Did it take place after you left Culombe's home?

MR. BILL: I object, Your Honor, because I don't think that it is definite, and what the witness is bothered about is what he means by these stories. Are they the ones that Mr. McDonough has asked about, which he has denied, or the one that he admits was made?

MR. McDONOUGH: I wasn't even on this, Your Honor. He went and dug up this old potato.

MR. BILL: No, you asked the question and he is correcting it.

MR. McDONOUGH: He asked me. He wanted it read.

THE COURT: Mr. McDonough, you are addressing the Court, I take it.

MR. McDONOUGH: I am sorry.

THE COURT: I wasn't in on the conversation.

MR. McDONOUGH: I was looking at the State's Attorney but I was addressing the Court.

THE COURT: You may proceed with your examination in any way you see fit.

Q. When did you talk about the State's Attorney?
A. Sometime after I entered that room Arthur Culombe said that he would like a copy of his statement shown to State's Attorney Albert Bill.

Q. It was before you left the room to go to Coleman Drive, wasn't it? A. Yes, sir.

Q. That clear it all up. A. Yes, sir.

Q. Are you satisfied? A. Now I am, yes, sir.

Q. Now, we will go to his home. What did Culombe say to his wife when he went into the house?
A. I don't know.

Q. He did say something to her? A. It would be the usual thing. I don't recall now anything that Mr. Culombe said at that time.

Q. Possibly I can refresh your recollection. Did he say to his wife "This is one reason I am telling things now, so they won't be bothering you any more"?

A. No, sir.

Q. Well, if he did say such a thing you knew that he had reason to say it? A. No, sir, he would have been corrected if he said any such thing.

Q. What? A. He would have been corrected if he said any such thing.

Q. He would have been corrected? A. Yes, sir.

Q. Were you in the habit of correcting him when he said things you didn't feel—

A. I wasn't bothering her. Mrs. Culombe was not bothered.

Q. I didn't say you were. I asked you whether or not he made any such statement as that?

A. No, sir, he did not.

Q. He did not? You didn't hear everything that he said, did you? A. No, sir.

Q. So he could have said it and you didn't hear it, isn't that so? A. He could have said it.

Q. Then when you just said that he didn't say any such thing— A. Within my hearing.

Q. Within your hearing? But you won't say that he did not say that to his wife, will you?

A. Not within my hearing.

Q. But you will not say that he didn't make that statement to his wife?

A. I will go along with you on that.

Q. You will?. He didn't make that statement?

A. I will say I don't know whether or not he made such a statement to his wife.

Q. Then he might have, so far as you know?

A. So far as I know.

Q. And you do know that it is a fact, don't you, Lieutenant, that once he did make the statement and signed the statements, that his wife was not annoyed as much as she was before? That is a fact, isn't it?

MR. BILL: Objection.

MR. McDONOUGH: I will withdraw it, because a word—I think that word makes it inadmissible.

Q. You do know that after he signed the statements that his wife and children were not brought to police headquarters, don't you? A. That is a loaded one.

Q. What did you say? A. That is a loaded one. I can't answer that "yes" or "no".

Q. What do you mean, that is a loaded one?

A. I can't answer that "yes" or "no".

Q I don't understand the statement "That's a loaded one". A. I don't understand your question.

Q. That is a loaded one? A. Yes.

Q. What's a loaded question? A. It has two meanings.

Q. You mean it is like the one "Have you stopped beating your wife?" You mean it is like that?

A. I didn't think of it along that line, but it is a question in my opinion that has a double meaning. I couldn't answer it.

Q. It is a fact, Lieutenant, isn't it, that Mrs. Culombe wasn't brought to State Police headquarters after Culombe signed the statement admitting his implication in the New Britain killings A. I don't know, sir.

Q. Do you know that she was brought to headquarters after he signed the statements? A. Yes, I am of the opinion she was.

Q. How many times? A. At least once.

Q. Probably more often? A. Yes.

Q. But she wasn't so brought after the statements were signed to police headquarters as often as she was before it was signed, was she? A. I can't answer that question.

Q. Why not? A. Because I didn't say she was brought many times before Culombe made the statement

Q. Was she brought many times before he made the
A. On Tuesday was the first time she came to the station.

Q. When was the second time? A. Wednesday Thursday or Friday.

Q. You mean at least twice? A. I said Wednesday, Thursday or Friday.

Q. She came on Wednesday, Thursday and Friday?
A. Wednesday, Thursday or Friday, Mr. McDonough.

Q. You know she came on one of those three days?
A. Yes.

Q. But you don't remember the day? A. No.

Q. So that after the so-called confession was signed you knew she came? A. Yes.

Q. I asked you how many times before the confession? A. Once.

Q. She came once? A. That is to the best of my recollection.

Q. You are not forgetting, are you? A. That is my best recollection.

Q. Would you say she didn't come on Sunday or Monday? A. Yes, sir. I am of the opinion the first time she came was on Tuesday.

Q. Could you be wrong? A. I doubt if I am wrong on that.

Q. To the best of your recollection? A. Yes.

Q. And your recollection is good? A. I feel it is.

Q. She came once, and that was on Tuesday?
A. Yes, sir.

Q. That night was the thirteen or fourteen year old girl there with the mother? A. I don't know.

Q. She was there with the mother?
A. Yes, she was.

Q. There was one particular occasion where that thirteen or fourteen year old girl came with the mother—the two of them were there together, that's right?
A. There may have been the three of them.

Q. There was one occasion where the older girl and the younger child and the mother were there together?
A. On one occasion the three of them were there.

Q. That was the night you and Culombe had the trouble? A. I never had trouble with Mr. Culombe.

Q. The question was did you have trouble that night?
A. No, sir.

Q. What night was that? A. I never had trouble with Mr. Culombe.

Q. What night was it Mrs. Culombe and the two children were there? That was the question. A. I don't know.

Q. Your memory is pretty good on a lot of other things, but you don't know. All right. Was it Tuesday night? A. I would have to check the hospital records. The night they were there the child had the mumps and I instructed the policewoman to take the child to the hospital.

Q. Did she take her? A. She did.

Q. That night? A. I don't know the night. The hospital record would reflect that.

Q. That night you told the policewoman to take the child to the hospital and she did? A. Yes.

Q. That night you instructed your policewoman to take the child to the hospital—that night? A. Yes.

Q. Don't you know that was Sunday after he signed the statement? A. I don't know.

If that is shown on the hospital records, will you go along with it? A. If I could see the hospital records that would refresh my memory.

Q. You know that I wasn't there that night, don't you? A. I have no recollection of having seen you there.

Q. I wasn't there from Saturday until Wednesday night until the confessions were signed early Thursday morning? A. Not to my knowledge.

Q. The first time I was ever on the scene was the following Friday in the afternoon. A. I was told that.

Q. You saw me on a Sunday—the afternoon you

went around to get his statement without telling me?
A. Yes.

Q. But how is it you have such a poor memory on these matters I ask you about, such as the day the baby went to the hospital, and I am able to ask them and I wasn't there?

MR. BILL: Objection.

THE COURT: Sustained.

Q. Do you think I might be able to ask you these questions if somebody didn't tell me? A. Or that he was lying.

Q. Do you think he is lying about the baby going to the hospital on Sunday? A. I don't know.

Q. Will you say that Mrs. Culombe was not at State Police headquarters on Monday? A. Monday the 25th? I don't remember seeing Mrs. Culombe at State Police headquarters.

Q. What was the night you remember Mrs. Culombe and the children being there? A. Sometime in the middle of the week.

Q. Was it the night he signed the statements? A. I don't know.

Q. Well, the night he signed the statements was what night? A. Wednesday night.

Q. And you don't know whether Mrs. Culombe was there that night with the children? A. Mrs. Culombe had nothing to do with the signing of the statement.

Q. Mrs. Culombe was not in any room with you and Mr. Culombe on the night of the signing of the statements?
A. No, sir.

Q. There was only you and Detective O'Brien and Sergeant Paige, and who else? A. Detectives Murphy and Matus.

Q. That night was right in the middle of the week and she wasn't there, was she? A. I tell you I don't know what night it was.

Q. You don't know right now what night?
A. No, I don't.

Q. It was Tuesday night, wasn't it—the night he went up to the jail? A. Mrs. Culombe was there on Tuesday night.

Q. We agree on that, but we are talking about the children. They were there the night she was there?
A. I said I am of the opinion she was there more than once.

Q. Before the statements were signed? A. Before and after.

Q. Did she take the children up to see Culombe after the statements were signed? A. It was at the mother's request.

Q. They were up there Tuesday night with the mother, weren't they—the night before he signed the statements? A. That Tuesday night I remember Mrs. Culombe accusing her husband and accusing Taborsky of these crimes. Certainly the children were not there.

Q. No, that was Monday night, wasn't it? A. No, that was Tuesday night.

Q. She was up there three nights before he signed the confession wasn't she? A. I am talking about the children. I remember seeing Mrs. Culombe when she came in the room and accused Taborsky of the crimes and

accused her husband of the crimes. I don't remember seeing the children on Tuesday night.

Q. What night did they come up? A. Some night following that.

Q. They didn't come alone, did they? A. Not to my knowledge.

Q. Wasn't their mother with them then? A. She could have been.

Q. By the way, didn't you take one of those children alone up at headquarters and question them? A. I am of the opinion a statement was taken from the oldest child, yes, sir.

Q. And she was brought to headquarters? A. Yes.

Q. And the statement was taken then? A. That is where it would have been taken.

Q. You brought the children up with the mother—or you brought one child alone and talked to her?

A. That sounds pretty much so.

Q. And you let Culombe know you were doing this, didn't you? A. Intentionally?

Q. Well, intentionally. A. His wife may have been on the premises, but he didn't know.

Q. He was in a position to know? A. Not to my knowledge.

Q. He was being questioned in one room of the barracks and his wife and children were there while he was being questioned, so he was in a position to know?

A. No, I saw Mrs. Culombe and one of the children down in the dining room in the barracks, and Culombe was upstairs in the headquarters building. He couldn't see what was going on.

Q. Well, one Tuesday night before the statement was signed, weren't Sergeant Paige and you questioning Culombe, and you stepped up and opened a door and said to the older daughter, "Honey, come over here and tell your father what you told us"? A. That could be true.

Q. And Culombe was there and heard it, wasn't he?
A. That could be true.

Q. It was true, wasn't it? A. I have no definite recollection of saying that, but the child made a damaging statement against her father.

Q. I don't care what she said, but that did happen is what I asked you? A. It could be true.

Q. Well, it is true, isn't it? If it wasn't say so.
A. I wouldn't say it wasn't.

Q. Little Sandy, the baby, was playing around the floor that night? A. I have no recollection of seeing the child playing on the floor.

Q. And didn't Culombe say to you "How low can you get?" A. No, sir.

Q. Why do you laugh? A. It is a ridiculous statement.

Q. What is ridiculous? A. Culombe saying "How low can you get?" It is a lie.

Q. If he said it, wouldn't he be justified? You said the other day you don't have a temper. You said on the witness stand you had a very even temper.

THE COURT: Let us get back to the evidence.

Q. Are you sure that wasn't said to you? A. It wasn't done.

Q. If it was done— A. It wasn't done.

MR. BILL: I object.

THE COURT: Sustained.

Q. That is the night that Culombe went downstairs crying in his cell? A. I have no knowledge of Culombe crying in his cell at any time.

Q. You were in charge of this investigation?
A. I was.

Q. Didn't you get reports about what went on in your absence? A. I had no report he was crying.

Q. Didn't you get reports as being in charge of this during the course of your investigation? A. Yes.

Q. About everything, didn't you? A. I did.

Q. Didn't you get a report of Culombe's condition in his cell? A. You will have to explain that.

Q. You know what I refer to when I refer to a man's condition—his health, his mental condition, his reactions. Didn't you know about it?

MR. BILL: I object to it.

THE COURT: I will sustain it; we are getting away from the evidence.

Q. Were the reports you say you got on what went on in your absence oral or written? A. The reports I did get were oral.

Q. You got none in writing from the men underneath you? A. Not concerning Culombe. This is all over.

Q. Until the investigation was completed. Do you men in the Statement— Withdrawn. Do the men in the State Police Department make out daily reports of their activities to a superior officer such as the Major or the Commissioner? A No, sir.

Q. To describe the day's investigation? A. I kept my superiors informed verbally.

Q. Did you at any time between February 23 and February 28 make a written report to Commissioner Kelly of the conduct of your investigation? A. Not to my knowledge.

Q. Would you say you didn't? A. No, sir.

Q. You are sure about that. A. Positive.

Q. Did you make one to Major Riemer A. No, other than giving him a copy of the confession.

Q. Well, Sergeant Paige made a report to the State's Attorney. Do you make a written report to the State's Attorney? A. Eventually, yes.

Q. When do you make that report out for him, after the investigation is completed? A. When we felt everything had been done that could be done and should be done.

Q. In that report did you inform the State's Attorney that there was a discussion by Culombe of what Sergeant Paige called a request in regard to the State's Attorney? Did you include that in your report? A. No, sir.

Q. You were making a report to the State's Attorney and you didn't include in it that the defendant who made the statement made a request for him or get notice to him?
A. I didn't know of such a request.

Q. You heard Sergeant Paige testify? A. I heard him, yes.

Q. Then you were not completely informed?
A. Apparently not, Mr. McDonough.

Q. You mean your men were not keeping you informed? A. On important events I believe they were.

Q. Starting right off with the fact that the men were drinking liquor in a State Police cruiser—you didn't learn about that until you got on the stand here? A. That's right.

Q. There were a lot of things about the case you didn't learn until you got in here? A. Yes, sir.

Q. Is that the reason why you can't remember a lot of things here?

MR. BILL: Objection.

THE COURT: Sustained.

MR. McDONOUGH: Have you got that booking of the State Police I requested this morning?

THE COURT: We will take our recess here. Escort the accused from the courtroom. I didn't mean to cut you short, but you might show it to him during the recess.

(Recess at 3:30 P.M.)

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VOLUME II

TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1960

No. 161

ARTHUR CULOMBE, PETITIONER

vs.

CONNECTICUT

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF ERRORS OF THE STATE OF CONNECTICUT

PETITION FOR CERTIORARI FILED MAY 12, 1960

CERTIORARI GRANTED JUNE 20, 1960

State of Connecticut

Supreme Court of Errors

HARTFORD COUNTY

OCTOBER TERM, 1958

4717

STATE OF CONNECTICUT

vs.

JOSEPH L. TABORSKY

and

ARTHUR CULOMBE

JOINT APPENDIX OF APPELLANTS AND APPELLEE

VOLUME 2 OF 3

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JUNE 11th, 1957. 3:30 P.M.

THE COURT: Bring in the accused, Sheriff.

(Accused present.)

(Jury and alternates not present.)

MR. BILL: I am presenting you, Mr. McDonough, with a book from the State Police Headquarters. It says "Record, February 7th, 1956 to 6-2-57," and perhaps Lieutenant Rome can clear up just what it is. I don't know anything further.

SAMUEL ROME, on the witness stand.

CROSS EXAMINATION BY MR. McDONOUGH: (RESUMED)

Q. Will you look at this book, Lieutenant, please, and tell us what it is? A. That is the log book of Station H barracks, Hartford.

Q. And under whose charge is that log book?

A. It would be under Lieutenant Albert Kimball's charge.

Q. Is that the book used for booking the prisoners?

A. No, sir.

Q. Is there another book? A. No, sir.

Q. How are the prisoners booked? A. We don't book them. We make note when they are locked up at the barracks.

Q. The testimony is by yourself and by Sergeant Paige that Culombe and Taborsky were booked Saturday night.

MR. BILL: I thought the word, Your Honor, was "arrested", I don't know.

MR. McDONOUGH: Booked, as I recall.

THE COURT: My recollection is the same as Mr. McDonough's but it may not be correct.

MR. BILL: I know the word "arrested" was in there.

THE COURT: I am sure the word "booked" was too.

MR. McDONOUGH: I am certain. How about you, Mr. Burke?

MR. BURKE: I thought so but I will check it here.

THE COURT: You may proceed with your examination.

Q. Thisis a log book? A. Yes, sir.

Q. And there is no other book over there used for booking or making entries of prisoners at all?

A. Not to my knowledge.

Q. Is that right? A. Yes, sir.

Q. Unfamiliar as I am with State Police Headquarters, even though I have talked about the boiler room and the Captain's chair and those other things, how are the prisoners presented when they are placed under arrest, say for not murder, but an ordinary crime, locked up. How are they booked for Court in the morning?

A. We don't book them at the barracks. They are informed of their arrest, the Sergeant in charge or Lieutenant in charge is informed of the proceedings of the case, that the arrest has been made and the officer gets the evidence together and he appears in court.

MR. McDONOUGH: For the purpose of identifying this for the record and offering it for identification, Your Honor, I describe it as a log book, Lieutenant?

THE WITNESS: That's what I'd call it, yes, sir.

MR. McDONOUGH: May it be marked for identification, Your Honor?

THE COURT: The Defendant Culombe's Exhibit 2 for identification.

MR. BILL: Now, Your Honor, on the question of—

THE COURT: Just a moment.

(State Police Log Book marked "Defendant Culombe's Exhibit 2 for Identification").

MR. BILL: I have no remarks. I thought that there were some remarks coming up, but apparently not.

Q. Page 127, does that refer to Joseph Taborsky and Arthur Culombe, of Defendant's Exhibit 2? A. Yes, sir.

Q. Defendant Culombe's Exhibit 2. On Saturday, February 23rd, when it has been testified that Culombe and Taborsky were booked, will you look through Defendant Culombe's Exhibit 2 and see if there is any entry, booking or otherwise, in regard to Culombe or Taborsky?

A. No, sir.

Q. Between the 23rd and the 28th are there any entries regarding Culombe and Taborsky, outside of page 127? A. I don't find any.

Q. Thank you. It has been testified here that they were booked under Section 195d of the Supplement, 1955 Supplement to the Connecticut General Statutes, for suspicion of felony on Saturday, September 23rd, and the Exhibit doesn't show that to be so, does it? You have examined the exhibit? A. My recollection is, Mr. McDonough, that I arrested them and charged them with violation of that section.

Q. I am telling you, Lieutenant, that the record shows —the transcript shows that on the 23rd of February, 1957, Taborsky and Culombe were booked and charged under Section 195d of the 1955 Supplement with suspicion of committing a felony. Now, you have looked at the log book and it doesn't show any such entry, isn't that so?

A. The log book shows no such entry. That is correct.

Q. Is there anything else in the State Police Headquarters, to your knowledge that shows a booking under a charge of suspicion of committing a felony? A. My reports would.

Q. Your reports? What reports?

A. The reports I made to the State's Attorney.

Q. And that is after the conclusion of the case?

A. Yes, sir.

Q. But not during the case, there are no records of the department bearing out the testimony of yourself and Sergeant Paige, or especially yourself, that these men were booked and charged under the belief that they committed a felony? There isn't any record of such a thing?

A. I find no record.

Q. Well, you so testified, didn't you? A. I did.

Q. Then did you book them with a charge of suspicion of committing a felony? A. I arrested them and charged them with that.

Q. You charged them with that? A. Yes, sir.

Q. You said that you had them booked for it. Have you any records of the State Police Department—

MR. BILL: Now, you are going to check that with the transcript.

MR. McDONOUGH: I haven't finished.

THE COURT: I will sustain it until you show the record, showing it, because I am not clear, Mr. McDonough. The witness has testified this afternoon only to having arrested them.

MR. McDONOUGH: It is being checked.

THE COURT: Why don't you go on to something else and we will come back to it.

Q. We will come back to Mrs. Culombe's visit to headquarters again and her being present with Culombe or Taborsky or anyone else, and you say that it was only—there were two nights before the confessions, or two occasions that Mrs. Culombe was brought to State Police Headquarters. One was the occasion when she confronted

Taborsky and what was the other occasion?

A. I have no recollection that I stated that there were only two times.

Q. Were they—if I am wrong, correct me. Were there two times? A. Two or three times.

Q. At least there were two times and maybe three times she was brought to police headquarters?

A. Yes, sir.

Q. Before he made the confession? A. No, sir.

Q. I know that was the question. A. No, sir.

Q. I know that was the question. We probably misunderstand each other. A. We certainly do.

Q. How many times before Culombe made the confession was Mrs. Culombe brought to headquarters?

A. I am of the opinion it was only one time.

Q. And wasn't that Sunday night? A. That was Tuesday night.

Q. Did you question Culombe Sunday night?

A. I must have.

Q. You don't recall? A. No, I have no definite recollection.

Q. Sergeant Paige questioned her, didn't he, Sunday night? A. Questioned who?

Q. Culombe, from a list of the so-called crimes that were committed, and then you entered the questioning?

A. That was Wednesday afternoon.

Q. I am talking about Sunday night. Did that also happen on Wednesday? A. I have no recollection that it took place on Sunday night.

Q. Just to refresh your recollection, didn't Sergeant Paige question Culombe Sunday night?

A. He may have.

Q. And at some time when Sergeant Paige was questioning Culombe, weren't you questioning Mrs. Culombe in the next room? A. No, sir.

Q. Did at any time you say to Mrs. Culombe "Do you want to see your husband?" Or did you ask her if she wanted to see her husband while in State Police Headquarters? A. May I have that question?

THE COURT: Yes, read it, Mr. Burke.

(Last question read by reporter.)

A. I may have said that.

Q. And did she reply to you "What the hell do I want to see him for? We don't get along together too well. Let's get on the ball right here. My two kids are all alone."

A. I don't remember that, no, sir.

Q. Would you say that she didn't say it to you?

A. I would say that she didn't say it. I don't remember her saying it.

Q. Which is it? She did not say it or you just don't remember. A. She did not say it.

Q. She did not say it? Did she at any time tell you, when she was being questioned by you in police headquarters, State Police Headquarters, that her two kids were all alone? A. No.

Q. Had you had her taken out of the house and brought to police headquarters and the children left alone? A. No.

Q. Did you say to Mrs. Culombe, "We will let you go home after we know that you are helping us and you are telling us the truth?" A. No, sir.

Q. Did Mrs. Culombe help you? A. Indirectly, yes.

Q. Did you ask her to help you? A. Yes.

Q. Did you talk to her about some groceries, some canned goods? A. I have no recollection of that.

Q. I think that it has been testified by Sergeant Paige that there was discussion about canned goods with Mrs. Culombe? A. That was Sergeant Paige's testimony. Yes, sir.

Q. Didn't you question Mrs. Culombe about canned goods? A. I have no such recollection.

Q. Will you say that you did not? A. I have no such recollection.

Q. Then you won't say that you did not?
A. I don't know.

Q. It is possible that you did? A. Remotely.

Q. Even remotely? A. I don't remember.

Q. Didn't you threaten her with a charge of conspiracy about the theft of canned goods if she didn't come clean and start talking? A. No, sir.

Q. Did you discuss a charge of conspiracy in regard to the canned goods? A. No, sir.

Q. At the time that Mrs. Culombe was in the office being questioned by you wasn't she crying? A. No, sir.

Q. You say that positively? A. Positively.

Q. Didn't she say to you "If I had a baseball bat I would give it to the whole dam bunch of you?" A. Never, No, sir.

Q. Wasn't another State policeman in the room when you were questioning Mrs. Culombe?
A. I didn't question Mrs. Culombe at police barracks.

Q. Did you talk to Mrs. Culombe in the police barracks? A. Yes, sir.

Q. Then we will drop the distinction of questioning and talking to her. When you talked to Mrs. Cuolmbe in in the police barracks were there other state policemen in the room? A. Doris Murtha, state policewoman, yes, sir.

Q. How about state policemen? A. I can't recall.

Q. Was Mrs. Culombe called—addressed as "Mrs. Culombe" by any of the state policemen, or as "Dottie"?
A. Not to my knowledge.

Q. Did you hear a state policeman say to Mrs. Columbe, "You don't mean that, Dottie. I'll take you home soon." A. No, sir.

Q. And did she say "Just take me out of the door and I will be satisfied." A. No, sir.

Q. Wasn't that all done in the presence of Culombe?
A. No, sir.

Q. Well, she did confront her husband, didn't she?
A. Yes, sir.

Q. There are only certain things that you remember about the conversation with her husband, between she and her husband, isn't that so, Lieutenant? A. I don't know that that is so.

Q. You do remember a conversation between Mrs. Culombe and Mr. Cuolmbe, don't you?
A. I remember her accusing her husband.

Q. Do you remember all the conversation between Mrs. Culombe and her husband? A. I couldn't say that I do.

Q. You do remember that she accused her husband, as you say? A. I remember that. Yes, sir.

Q. Do you remember the husband's reply?
A. Yes, sir.

Q. And what was his reply? A. "I can't confess to this because if two people go out and hold up a place and one man kills the man inside, I'd be just as guilty."

Q. How long did the conversation between the husband and wife last?

A. A very short time.

Q. How long? A. Ten or fifteen minutes.

Q Ten or fifteen minutes? Now, do you mean it took Mrs. Culombe and Mr. Culombe ten or fifteen minutes to say merely what you have told us? A. And Culombe's reply.

Q. How long did it take him to do that?

A. There were other words spoken.

Q. How long did it take him to make that statement that you just made?

A. Ten or fifteen minutes.

Q. Repeat that statement that he made.

MR. BILL: Your Honor, I object at this point. We have covered, when the Lieutenant was on the stand before we covered thoroughly by direct and cross the period that covered Saturday on through Sunday and now we started in on the confession of Wednesday, including all of the days down through there. We have gone back through it, it is repetitious. We've gone over it, Your Honor, when he was on cross, and I sat here patiently letting him go through it. I don't think that he has a right to, but I let him, knowing that the case is important and giving him the extensive privilege of cross examination. But I don't think that it ought to go any further, Your Honor. He has been over and over this thing, and he has been over it before.

MR. McDONOUGH: This is expressly for the purpose of the vehicle that is to carry this piece of paper, this Exhibit

for identification, to admissibility. Anything that dwells on the manner of obtaining this statement is admissible on direct examination by the State and certainly on cross examination by the defense and should be in the record.

THE COURT: Of course, Mr. McDonough, I don't believe anyone would question your law, but it does seem to me that you have gone over this matter pretty exhaustively and it becomes a matter of discretion, and really the Court could figure out how long it took to make that statement. The officer has repeated it at least twice and I think the terminal facilities have been explored, without meaning to be critical.

MR. McDONOUGH: I certainly don't want to prolong this, for reasons that we all know.

THE COURT: And I don't want you to cut it short just for the sake of speed, but it does seem that some of these facts should be fairly clear.

MR. McDONOUGH: I agree with Your Honor thoroughly.

Q. Lieutenant Rome, they did say other things, that's what you are telling us? It boils down to that, doesn't it?
A. Yes, sir.

Q. But you don't remember what they said?
A. No, sir.

Q. So that it is possible, if testimony is introduced regarding a conversation, it could have happened and you don't remember it? A. It is possible.

MR. BILL: Mr. McDonough, I present to you the Police Department record of New Britain, Connecticut, showing February 25, 1957, at 12:13 p.m.

MR. McDONOUGH: Thank you.

MR. BILL: Showing the booking of Albert Taborsky and Arthur Culombe, is that what you requested?

MR. McDONOUGH: Thank you. May that be marked Culombe's Exhibit for Identification, Your Honor?

THE COURT: Three for identification.

(Record of New Britain Police marked "Defendant Culombe's Exhibit 3 for Identification").

MR. BILL: And then I present to you certified copies of the Police Court of the City of New Britain, one showing the matter of presentation on breach of peace against Arthur Culombe, and the final result in that case, as well as another document from the same court showing the charge of — the warrant of Joseph Taborsky for breach of peace signed February 26th, 1957, and the ultimate results and proceedings in that case.

THE COURT: I suppose that last one should be tendered to Mr. Burke. He requested it.

MR. McDONOUGH: Is this the original record or a copy?

MR. BILL: That is a certified copy.

MR. McDONOUGH: May the certified copy of the information presented in the New Britain Police Court on the 26th day of February, 1957 in the case of Arthur Culombe be marked for identification?

THE COURT: Exhibit 4 for identification.

(Certified copy of warrant of Arthur Culombe marked "Defendant Culombe's Exhibit 4 for identification").

Q. Lieutenant Rome, while we are talking about the New Britain Police Court, you were there when they were presented in court on Tuesday morning? A. Yes, sir.

Q. Do you know whether or not there was a stenographer taking the proceedings? A. I don't know.

Q. Defendant Culombe's Exhibit 2, for identification, will you look at it, Lieutenant, and — I'll withdraw that. When was Culombe locked up after he was taken into custody? A. Saturday night.

Q. That was February 23? A. Yes, sir.

Q. Would you look at Defendant's Exhibit 2 for identification—Culombe's Exhibit 2, and see if it doesn't say he was locked up at 2:00 P.M. on the 25th—a Monday?
A. Yes, sir

Q. Well, when was he locked up? A. Both times.

Q. Is there an entry on the 23rd of him being locked up? A. No, sir. That is an omission or an error.

Q. That's an omission or an error of the records of the State Police Department? A. No, sir, my own.

Q. It is an error of yours, and you are a Lieutenant of the State Police Department, so naturally it becomes an error of the Department. A. I am responsible for it.

Q. Why didn't you make an entry on Saturday — the 23rd after they were locked up? A They were locked up, and it is my recollection that I asked the Officer to look in on the prisoners downstairs. I omitted, obviously, to make a note of it in the log.

MR. McDONOUGH: May we be excused for a moment, Your Honor?

THE COURT: Surely.

Q. Now, on Tuesday morning, Lieutenant, you took Taborsky and Culombe to New Britain, didn't you?
A. Yes, sir.

Q. And you took them on Monday morning to be booked down there at headquarters? A. Yes, sir.

Q. Brought them down there about nine o'clock, didn't you? A. You are talking about nine o'clock?

Q. Yes. A. No, sir.

Q. What time did you bring them down?
A. I am of the opinion it was around noon.

Q. When they were brought down there there were crowds of people across the street from the New Britain Police Headquarters and crowds on the same side of the street as Police Headquarters—crowds on both sides of the street, isn't that so? A. Yes, sir.

Q. When you brought them out of their cells on Monday morning, did you say to Taborsky and Culombe, "If you fellows want counsel you have a chance to get them this morning."?
A. I don't remember saying that, Mr. McDonough.

Q. You won't say you did not? A. I won't say I didn't.

Q. Did you bring them first into the Police Headquarters or into the Detective Bureau—and that is next door to Police Headquarters, isn't it? A. That's right.

Q. In a different building adjacent to Headquarters. Did you bring them into the Detective Bureau first?
A. I am of the opinion that is where I first brought them, yes.

Q. And later on you brought them into Police Headquarters? A. Yes.

Q. And had them booked, and later brought them to Identification Headquarters and had them fingerprinted and photographed? A. Yes, sir.

Q. But they were also photographed in the Detective Bureau, weren't they? A. I don't know.

Q. Weren't you there with the men, the defendants? A. Most of the time.

Q. Weren't they sitting there at metal desks on a metal chair in the Detective Bureau? A. I don't remember.

Q. Well, weren't there newspapermen and television and cameras allowed to photograph them while they were in the Detective Bureau? A. Not in the Detective Bureau. That was up at the courtroom

Q You mean it was in the courtroom where they were presented that the TV cameras and motion picture cameras and flashlight cameras were being used in the courtroom to take pictures of these men when they were being presented? A. I didn't say that.

Q. Did that happen? A. No.

Q. Are you sure it didn't happen? A. Yes, sir.

Q. Are you sure there were TV cameras in the courtroom? A. I saw a couple of flashbulbs.

Q. When they were put in the prisoners' pen in the rear of the courtroom the photographers were taking their pictures, weren't they? A. I don't know.

Q. You have seen the pictures in the papers, haven't you? A. Not in the pen.

Q. You were in the courtroom? A. I was in the courtroom, yes.

Q. Then you brought them back to Hartford and had them down in the barracks? A. Yes, sir.

Q. And whose cruiser was Culombe in?
A. I don't know.

Q. A cruiser that you were in—were you in the same cruiser? A. I don't think so. I think I was with Taborsky most of the time.

Q. Did the cruiser stop at Kurp's gas station on the way back? A. Yes, sir.

Q. Drove into the yard? A. Yes, sir.

Q. Did you ask Culombe any questions when the cruiser drove into the yard? A. Yes, sir.

Q. Did you ask him if he recognized the place? A. Yes, sir.

Q. Didn't he answer No? A. Yes, sir.

Q. Didn't you ask him if he had been up there before?

A. Yes, sir.

Q. And he answered No? A. Yes, sir.

Q. Was there a New Britain detective in the car with Culombe that pulled into the gasoline station? A. I don't believe so.

THE COURT: May I have that question and answer again?

(The Reporter read the last question and answer.)

Q. Then you came back to the barracks and Culombe was locked up for a while and you resumed the questioning, that's true isn't it? A. Yes, sir.

Q. Did you ask him if he read the morning newspaper and he told you he didn't have a newsboy and besides, he couldn't read? A. I don't remember that.

Q. Did you tell Culombe in that period of questioning on Tuesday afternoon that there was evidence that one of the guns that had been found along with Culombe had been used in a New York murder? A. No, sir.

Q. Did you discuss a New York murder with Culombe? A. Yes, sir.

Q. Did you tell him there were New York detectives on the way to talk to him? A. No, sir.

Q. What discussion did you have with Culombe about that? A. I asked him if he committed a murder in New York.

Q. And he hasn't changed his testimony about that? A. No, sir.

Q. And as far as you know, he isn't connected with the New York murder? A. No, sir.

Q. Tuesday night he was questioned further, wasn't he? A. Tuesday night he was taken to the County Jail.

Q. Before he was taken there he was questioned, wasn't he? That was the night Mrs. Culombe was at headquarters? A. Yes, sir.

Q. And you and he had some difficulty that night, didn't you? A. No, sir.

Q. He then was taken downstairs and later removed to the jail, wasn't he? A. Yes, sir.

Q. It was at his request he was removed to the jail? A. No, sir.

Q. Did you hear Sergeant Paige testify that he sobbed while he was in his cell? A. I did.

Q. Did you hear Sergeant Paige testify with respect to your bringing his wife and children into this thing and Culombe accusing you of it and saying they didn't commit any crime? A. I don't recall that.

Q. His wife and children were brought into the barracks that night? A. His wife.

Q. And the children were in the barracks?
A. I recall only seeing his wife.

Q. Anyway, Culombe was upset that night after this day in New Britain and being taken into the gasoline station, and his wife was there and he was questioned, and he was upset and he was accused by his wife? He was upset—that is the question. A. Yes, sir.

Q. Was Sergeant Paige present at the questioning by you on Tuesday night? A. I don't know.

Q. Well, see if this will refresh your recollection. How did his wife get to the barracks Tuesday night?
A. I am of the opinion Miss Murtha brought her.

Q. She came in a cruiser? A. Yes.

Q. Before she was brought to the barracks in a cruiser, Culombe was being questioned by you in the presence of Sergeant Paige, and another police officer was sitting in the corner with a newspaper, and he started to stand up before his wife came in? A. No, sir.

Q. But you recall Sergeant Paige being in the room?
A. I know we both talked to Culombe that evening.

Q. And up to that time Culombe had signed a confession or admitted anything? A. Yes.

Q. What did he admit? A. Theft, I believe, of some canned goods.

Q. He was questioned about the canned goods the previous day, I understood you to say? A. I could have.

Q. And he made admissions about canned goods — taking them from his employer's warehouse? A. He confessed that he stole the canned goods.

Q. But you had told him you were going to arrest his wife, didn't you? A. No.

Q. Didn't you say to Culombe: "We have found some canned goods in the house while you were locked up here," and didn't Culombe say to you, "I don't know how you can charge her on the groceries; she don't know where I got them—I could have bought them for all she knows." Didn't Culombe tell you that? A. I don't recall Culombe making that statement.

Q. Well, he did say his wife didn't steal them—she could have thought he bought them? A. I am of the opinion he cleared his wife or left it that he did it himself.

Q. Did you say to him during the course of that conversation, "What the hell kind of a father are you? What have I got to do but lock them up because you are not man enough to admit it?" A. No, sir.

Q. But he did admit it anyway? A. He did.

Q. At one time didn't Culombe refuse to answer any more of your questions in any form, and you said to him: "Answer when I talk to you"? A. I don't remember that.

Q. Well, do you deny saying that? A. I will deny remembering it. I don't remember it.

Q. You had no right to make him answer if he didn't want to—you know that? A. Yes, I do.

Q. But you might have said "Answer me when I talk"?

Q. Did he say to you, "I don't care to answer anymore; I want to go downstairs and be left alone"? A. No, sir.

Q. Didn't he several times request to be brought back to his cell block and be locked up? A. No, sir.

Q. And didn't you refuse to have him locked up until you knew he was telling the truth? A. No, sir.

Q. Did you say to Culombe, "It's a good thing the law

protects someone like you, or I would work you over"?

A. I did not.

Q. Do you know what it means to "work over" a person? A. I think I can guess.

Q. Well, did you work him over—never mind properly or improperly—did you work him over?

A. No, sir.

Q. You don't have to guess what working over is. You know what that is in police parlance. You know what it means from a police standpoint? A. I can guess.

Q. What is your guess? A. That a couple of men jump on him and beat him up.

Q. You didn't learn that in Connecticut Headquarters, did you? A. No, sir.

Q. Did you, during the course of your conversation on Tuesday night refer to the gun collection and weapon collection and say to him, "I ought to take one of these billies and beat you over the head and see how you like it," and then to your men, "Take the bastard downstairs and lock him up"? A. No, sir.

Q. You didn't make those remarks? A. No, sir.

Q. Did you handle Culombe gently?

A. I thought so.

Q. Very kind to him? A. Considerate of his welfare.

Q. Considering in the circumstances that you were facing, you think you were considerate?

A. Can I have that read?

(The reporter read the question.)

A. I was considerate of Mr. Culombe's welfare, yes, sir.

Q. You could have been rougher with him than you were?

MR. BILL: Object to it.

A. I wasn't rough to him.

THE COURT: I would have sustained it but I will allow it to stand.

Q. Did you at anytime ever tell Culombe he better get on the bandwagon and start talking? A. I could have.

Q. Why, was there a bandwagon around he could have got on? A. No, but I would have made one for him.

Q. Did you tell Culombe that if he talked first and made a confession first before Taborsky that he would get consideration first from the State's Attorney's office.

A. No, sir.

Q. You do recall calling the thirteen or fourteen year old child over to the door and saying, "Honey, tell your father what you told us,"—don't you? A. I could have said that—I can't recall actually.

Q. And that the child said: "My father and Joseph Taborsky used to go in the bedroom and talk, and I heard them whisper". She made that statement in Culombe's presence, didn't she? A. She made the statement but I don't believe she made it in Culombe's presence.

Q. What did she say in Culombe's presence? A. I don't remember her making any statement in Culombe's presence.

Q. Well, you probably said to her, "Honey, tell your father what you told us". Did she tell her father what she had told you? A. I could have made that statement. I don't definitely recall.

Q. If you did, was there any reply made by Culombe?
A. I don't recall that.

Q. Do you recall this reply—to refresh your recollection—"How much more proof do you need—do you want me to take the baby in here and tell you?" Do you remember saying that to Culombe? A. No, sir.

Q. And Culombe saying to you, "How low can you get?" A. That's a lie.

Q. Did you then go into the room alone with Culombe after the incident with the thirteen or fourteen year old daughter—You do remember the daughter being there?
A. She was there on one night.

Q. Well, on that night—after what I referred to you said to the daughter—were you and Culombe alone then in a room after that where you talked to him alone with no one present? A. I have talked with Culombe alone. Whether or not it was after the daughter was there I don't know.

Q. After the daughter was there did you kick Culombe on the ankle and say, "That's a hell of a way to talk," and you bumped together and you grabbed him with your two hands by the throat and threw him to the floor?
A. That's a lie.

Q. That is your answer—that is a lie? A. That's the truth.

Q. In other words, you didn't do it? A. I did not.

Q. Weren't you quite exasperated at that point — you were getting nothing by way of the goods. Weren't you exasperated? A. I had some patience.

Q. Your patience was still in existence?
A. I still had some in reserve.

Q. Well, some of it had gone, hadn't it?
A. It could have.

Q. And some of your patience had gone, and the next day the confessions came, didn't they? A. Not in that order, Mr. McDonough.

Q. Well, your patience had been exhausted to a certain degree by Tuesday night? A. No. As a result of the months of investigation.

Q. Didn't Culombe at any time get insulting toward you and Sergeant Paige, especially you? A. No, sir.

Q. Didn't he get you riled A. No, sir.

Q. At times wasn't the air pretty blue between both you and Culombe, with language being used? A. No, sir; never.

Q. Between the both of you? A. No, sir.

Q. Did Culombe swear at you at any time?
A. No, sir.

Q. Did you swear at him? A. No, sir.

Q. Did you call him a liar, though, I think you said the other day? A. I said I may have called him a liar on more than one occasion; yes, sir.

Q. Did anyone other than yourself knock him to the floor? A. He was not knocked to the floor in my presence or at any time while in my custody.

Q. There were times that you and Culombe were alone, no one but the two of you? A. No, sir.

Q. And what happened between the two of you then we can look to either you or Culombe to tell what happened, and you say he's a liar if he says that? A. Yes, sir.

Q. Now, tell us again what Mrs. Culombe said the night that she confronted her husband for the first time, word by word.

A. Mrs. Culombe accused her husband of committing these crimes—

Q. No, I said tell us what she said, word for word.

A. Mrs. Culombe told her husband to confess to these crimes if the State Police could prove it.

Q. Confess to the crimes if the State Police could prove it? Go ahead. A. And she further said, "They must have something on you to hold you," or some words to that effect.

Q. Go ahead, Lieutenant. A. And she said that if she were convinced that he was responsible for these killings she would press the button herself.

Q. Do you know what she meant by "pressing the button?"

A. Yes, sir. The electric chair.

Q. Who told her that? Pressing a button?

A. I don't know.

Q. Do they press a button? A. They do not.

Q. Who put that thought into her mind, do you know?

A. Certainly not I.

Q. But you are sure she said it? A. Yes, sir.

MR. McDNOUGH: That's all, Lieutenant.

THE COURT: Mr. Bill is there anything further with this witness?

MR. BILL: No further questions.

THE COURT: Call your next witness. You may step down.

MR. BURKE: Your Honor, may the record show I wish to cross examine, as in the other case, and an exception?

THE COURT: May be noted.

MR. BURKE: Thank you.

VINCENT J. O'BRIEN, a witness called by the State, having been sworn by Mr. Coburn, testified as follows:

BY THE ASSISTANT CLERK:

Q. Your full name? A. Vincent J. O'Brien.

Q. And your address? A. 138 Parkside Drive, New Haven.

DIRECT EXAMINATION BY MR. BILL:

Q. You are a member of the State Police Department?
A. Yes, sir.

Q. And you are a detective? A. Yes, sir.

Q. How long have you been a detective?
A. Almost three years.

Q. And how long have you been on the Department?
A. Ten years.

Q. Are you skilled in shorthand and typing?
A. Yes, sir.

Q. And where did you gain your knowledge of that?
A. At McKeon's Secretarial School in New Haven.

Q. And have you practiced both shorthand and typing in your work with the State Police? A. Yes, sir.

Q. Now, did you take part in this investigation of the Taborsky and Culombe case? A. Yes, sir.

Q. And when did you first enter into the investigation?
A. On December 18th, 1956.

Q. Did you go down to New Britain at that time?
A. Yes, sir.

Q. With Lieutenant Rome? A. Yes, sir.

Q. And you accompanied him when you went over the grounds and the locale and went to the station and that sort of thing? You made an investigation at that time?

A. I didn't accompany him through the gasoline station on that day.

Q. But you took part? A. I accompanied him to New Britain Police Headquarters where we talked with New Britain police, learning some of the facts.

Q. Did you enter into the investigation when Taborsky and Culombe were brought to headquarters on February 23rd, at some time subsequent thereto? A. Yes, sir.

Q. And when was that, first, do you remember?
A. On Sunday, February 24th.

Q. On Sunday, the 24th? Where were you present at that time?

A. At State Police Headquarters.

Q. And who was there at the time? A. Lieutenant Rome, Sergeant Paige, several other officers in our department.

Q. And any of the accused? A. Later in the afternoon I was present in the room with Joseph Taborsky.

Q. Well, this group that you spoke of, that was a meeting of the officers themselves, you mean? A. Yes, sir.

Q. And subsequently there was a meeting with Taborsky? A. Yes, sir.

Q. Now, on the matter of Culombe, I think we'd better confine ourselves to Culombe, because that's what the

question here is. Did you see Culombe on Sunday?
A. No sir.

Q. You did see Culombe at some time, didn't you?
A. Yes, sir.

Q. And when was the first time you saw him after February 23rd when he was brought to State Police Headquarters? A. On Monday evening, February 25th.

Q. And what was the occasion? A. I was assigned by Lieutenant Rome to take a statement from Arthur Culombe, which I did.

Q. From whom? A. Arthur Culombe.

Q. From Arthur Culombe? In connection with what?
A. In connection with some canned goods which had been found at his home.

Q. And when was that? On Monday? A. Monday evening.

Q. At State Police Headquarters? A. Yes, sir.

Q. And who was present? A. Lieutenant Rome, and I believe Detective Jaconis and myself.

Q. Did you take shorthand notes of that meeting?
A. No, sir.

Q. You were just present? A. I wrote the statement in longhand.

Q. There was a statement made later as to Culombe's statements on the question of having taken the canned goods from his employer? A. Yes, sir.

Q. And you typed that statement? A. No, sir; I wrote it in longhand.

Q. You wrote it in longhand? And was it signed in your presence? A. Yes, sir.

Q. And some of the others? Was anything else done in so far as Culombe was concerned at that conference that Monday night? A. No, sir.

Q. Did you again meet where Culombe was, subsequent to Monday night? A. Yes, sir.

Q. At Police Headquarters? A. Yes, sir.

Q. Who was present? A. Lieutenant Rome, Sergeant Paige, Detective Murphy, and Arthur Culombe.

Q. And when was that? A. On Wednesday afternoon, February 27th.

Q. And about what time? A. At about three-thirty, P. M.

Q. And did you take notes of what took place there, at any time? A. Yes, sir.

Q. And I am confining the questions to State Police barracks, that afternoon. A No, sir.

Q. You have looked through your notes pretty carefully before you took the stand, did you? A. Yes, sir.

Q. At what point did you enter into the conversations that were taking place there at the barracks on Wednesday afternoon that you just described? A. I was called into the room by Lieutenant Rome.

Q. And will you tell us to the best of your ability what was said and done at that time while you were there? A. Well, shortly after I entered the room we all left.

Q. Was anything said by the accused while you were there, that you remember? A. There was conversation. I don't recall it.

Q. You don't recall? A. No, sir.

Q. There was nothing to do with any statement concerning the New Britain affair in your presence by the accused, was there? A. No, sir.

Q. Now, when you left State Police Headquarters where did you go? A. We started to drive to 20 Coleman Drive, in Hartford.

Q. That's the home of Culombe? A. Yes, sir.

Q. And you left from State Police Headquarters? A. Yes, sir.

Q. In a cruiser? A. Yes, sir.

Q. And who was present when you left in the car? A. Lieutenant Rome, Sergeant Paige, Detective Murphy, Arthur Culombe, and I.

Q. And who was driving when you left headquarters? A. I was.

Q. And was there a discussion as you proceeded on your way? A. Yes, sir.

Q. With the accused? A. Yes, sir.

Q. And was there a discussion between the accused and a man, or several? A. I believe the conversation was between Arthur Culombe, Lieutenant Rome and Sergeant Paige.

Q. You were driving, and where was Culombe seated? A. In the back seat.

Q. And was there somebody on the front seat with you? A. Yes, sir. Sergeant Paige and Detective Murphy.

Q. And Lieutenant Rome and Culombe, and anybody else on the back seat? A. That is all.

Q. Those two on the back seat? A. Yes, sir.

Q. Could you overhear what was being said there?
A. There was conversation regarding the location of some guns.

Q. Do you remember any of the nature of the conversation at that time? A. No, sir; other than it was concerning the location of some guns.

Q. And did there come a time when you stopped driving and somebody took over the driving, in the car?
A. Yes, sir.

Q. On what occasion was that? What caused that?
A. Lieutenant Rome told me to stop and told Detective Murphy to take over the wheel.

Q. And where was that in relation to between headquarters and Culombe's house, as far as—a quarter of the way, half way, or where was this? A. My recollection it was on the street—I think it's Ward Street; the next street south of Park.

Q. On Washington Street here? A. On Ward. I think it's Ward.

Q. Ward runs into Washington Street? Off Washington Street? A. I think that's the street. The one just south of Park Street.

Q. In other words, you proceeded from headquarters, you driving along Washington Street out here in front of this building, going to the south, and down about three or four blocks you came to Ward Street that turns to the right off Washington Street, is that right?
A. That's right, except I think Ward is the second block. I think it's the first street after Park Street.

Q. You turned there, is that right? A. I turned right on Ward Street and went westerly.

Q. And where was it that you made the change, if you remember? A. Just—It would be between Broad Street and Zion Street.

Q. So you had been driving only about three or four minutes, would you say? A. Yes, sir.

Q. And you stopped the car to do this, make this change, did you? A. Yes, sir.

Q. And where did you then go when Sergeant Murphy took the wheel? A. I moved to the passenger's seat, on the right, in the front seat.

Q. And Lieutenant Rome and Culombe remained in the back seat? A. I believe that Lieutenant Rome and Culombe were in the back seat.

Q. And when you took your position there on the passenger's side did you do anything then? A. Yes, sir. I took out my notebook and pencil to make a record of the conversation.

Q. Between whom? A. Lieutenant Rome and Arthur Culombe.

Q. And did you do that? A. Yes, sir.

Q. And how long did that continue? A. Until we reached Culombe's home.

Q. And did you take a running account of what took place in that conversation between them during that time? A. Yes, sir.

Q. And you have your notes here? A. Yes, sir.

Q. And you can tell us substantially what did take place? What was said? A. You mean the entire conversation?

Q. Substantially; without reading your notes. Have

you a transcript of those notes? A. No, sir; I have them here.

Q. You've got them in shorthand? A. Yes, sir.

Q. But you haven't transcribed them, have you?
A. No, sir. I haven't made a typewritten transcript of them.

Q. But have you reviewed them? A. Yes, sir.

Q. And having reviewed them can you tell us substantially, as you remember, both from what you heard and what you refreshed your mind with on your notes, what was said and the topic of the conversation and what was said there between these two? What are you referring to now?
A. These are the notes I made.

Q. These are stenographic notes? A. Yes, sir.

Q. Do you need them to tell us what happened?
A. No, sir; I can recall.

Q. I don't want to have you go all through, word for word, but if you need them so you can refresh your recollection by reference to those notes. If you will tell us in substance, as you remember, what the topic was and what was said between the two people?
A. Well, Your Honor, I am a bit confused here. Would this be—I don't know.

THE COURT: Your best recollection of what was said.

A. The entire conversation?

Q. Is it worrying you because matters other than this New Britain affair were discussed? A. Yes, sir.

Q. Is that what is bothering you? A. That's what I don't understand.

Q. The point is well taken, particularly in front of the jury. I don't claim it here now. But if you want to re-

fer to other matters, other than New Britain, and the other incidents, we've been going on that way. Does that help you? A. Yes, sir.

Q. Will you continue? A. Lieutenant Rome asked Arthur Culombe about several other incidents, and received answers concerning them.

Q. That was other than the New Britain affair?

A. Yes, sir. Then he asked where they had gone after one of these incidents, and the reply was that they had gone to New Britain, that he and Joseph Taborsky were in company, that Arthur Culombe was driving his own car, that they drove into New Britain and passed a gas station. Taborsky told him to turn around and pull in and "we'll take this place." They drove in and the attendant came out and he told the attendant to fill the gas tank, and at about that time Taborsky asked if there was a men's room. The attendant said there was, and Taborsky left the car and went into the gas station. After the gas tank was filled Culombe paid with a two dollar bill and when the attendant went inside the gas station Taborsky pulled a gun on him and ordered him into a room. He said there was a pump in the room. And during this time Culombe remained outside the gas station. After they entered this room he heard a shot and shortly after that Taborsky came out and started to search the gas station.

At about this time a car drove into the gas station and pulled up to the pumps. Culombe started to service the car when Taborsky came out and said something to Culombe to the effect that the man would have their marker number, and he called to the man and said, "Hey, your buddy wants to see you inside," or something like that; and he then pulled the gun and ordered the man inside the gas station and they went into the toilet. Culombe heard two shots and Taborsky came out and shortly after that he came out of the gas station and they left and drove back to Hartford.

Q. And that — I take it that other matters were referred to during this drive down—that is, the conversation had to do with other incidents before you hit on the New Britain matter, is that it? A. Yes, sir.

Q. And you took some notes on that, did you?
A. Yes, sir.

Q. And then you have covered this conversation in your notebook, too? A. Yes, sir.

Q. Whether or not that story was completed by the time you arrived at Culombe's house? A. Yes, sir.

Q. What did you do when you reached Culombe's house?

A. At Culombe's house all the others went into the home and I remained outside for a few minutes, and then I also entered.

Q. And who was there when you got there?

A. There was Lieutenant Rome, Detective Murphy, Sergeant Paige, Arthur Culombe, Mrs. Culombe, and the small daughter, were all present.

Q. Which one? A. It's the youngest of the two.

Q. I think it's the five year old one they have been speaking of, is that right? A. Yes, sir.

Q. Did you have your notebook with you there?
A. Yes, sir

Q. Did you take any notes in the house? A. Yes, sir.

Q. And what did that concern? A. Took notes of —I wrote notes of Lieutenant Rome finding a brown briefcase behind the medicine chest, and its contents, and the other things that were taken from the house at that time.

Q. What were the contents? A. There was a gun and two—a brown leather blackjack and a black leather blackjack.

Q. Anything else? I don't mean there. I don't mean in the bag. But any other incident that you made notes about?

A. Yes. Lieutenant Rome took a metal can from the safe, and I made a note of that, and took a green rubber raincoat from the closet in Mr. Culombe's bedroom, and I made note of that.

Q. Anything else? A. That's all I recall right now.

Q. Any conversations that you noted in the house?

A. I didn't make notes of the conversaton in the house.

Q. Did you go out doors on any of these trips that have been described here? A. Yes, sir.

Q. Where did you go? A. I went with the same group to the intersection of Newfield Avenue and Dexter Street in Hartford that same evening, where Arthur Culombe pointed—

Q. Was that in the afternoon? A. The same afternoon, yes, sir.

Q. You said "evening". Was this still afternoon?

A. I'm sorry. It was about in the vicinity of four-thirty P.M. when we left Arthur Culombe's home, and at that intersection Arthur Culombe pointed to a place in the swamp and said that we would find two guns in that swamp, and he said the gun parts in the can which Lieutenant Rome had taken from his home would fit one of those guns. He took us then around Dexter Avenue to, I think it's Reed Avenue, just over the West Hartford Line.

THE COURT: I think we'll stop here, Mr. Bill. You may escort the accused from the Courtroom.

(Accused removed from Courtroom.)

(Court adjourned, 5:00 P.M.)

WEDNESDAY - JUNE 12, 1957 - 10:22 A. M.

THE COURT: May I have the jury and the alternates?

(Jury and alternates seated at 10:25 A. M.)

THE COURT: Good morning, ladies and gentlemen. We are a little late in getting to you this morning, but the reason is that I have been talking to counsel and I am informed by all counsel that the matters before me will take the day, and so, with the instructions I gave you yesterday that you are not to talk to anyone about this case or allow anyone to talk to you about it; if there is anything in the papers you will not read it, and if there is anything on radio or television you will ignore it. I will excuse you now until tomorrow morning at ten o'clock. You may now retire.

(The jury was excused at 10:25 A. M.)

THE COURT: All right, Sheriff, bring in the accused, please.

(Accused present in the courtroom.)

THE COURT: You may proceed when you are ready, Mr. Bill.

MR. BILL: Detective O'Brien?

SERGEANT VINCENT O'BRIEN, previously sworn, recalled.

CONTINUED DIRECT EXAMINATION BY MR. BILL:

Q. Getting back a little, Detective O'Brien, so we will get the sequence of what we were discussing yesterday

afternoon, I will read from the transcript.

"Q. Where did you go? A. I went with the same group to the intersection of Newfield Avenue and Dexter Street in Hartford that same evening, where Arthur Culombe pointed —

"Q. Was that in the afternoon? A. The same afternoon; yes sir.

Q. You said, "evening". Was this still afternoon?
A. I'm sorry. It was about in the vicinity of four-thirty P. M., when we left Arthur Culombe's house, and at that intersection Arthur Culombe pointed to a place in the swamp and said that we would find two guns in that swamp, and he said the gun parts in the car which Lieutenant Rome had taken from his home would fit one of those guns. He took us in around Dexter Street to, I think it's Reed Avenue, just over the West Hartford line."

Q. That is when we stopped, Detective O'Brien, and will you continue and relate what happened after that when you were taken down to Reed Avenue which is over the West Hartford line. Will you pick it up there? A. Yes, sir, he pointed to a swamp area off Reed Avenue and said we would find a raincoat he had thrown in there after the shooting in New Britain. We went down to the swamp - to the border of the swamp - and Detective Murphy was able to fish this raincoat out of the swamp by putting a board in and using a long pole. Culombe said we would find a number on the collar of this raincoat and we did find the raincoat which had his name and number, I think, 16594 - in stencil. On the collar of the raincoat was —

Q. Whose name was on it? A. Culombe.

Q. Did you do anything more at that point?
A. After recovering the raincoat we left and he directed us to Chandler Street in Hartford.

Q. Where is Chandler Street in relation to Culombe's house? A. Chandler Street runs off Flatbush Avenue. It runs in a north and south direction off Flatbush Avenue in the vicinity near Coleman Drive.

Q. And that is where Culombe lived, was it - Coleman Drive? A. Yes, sir.

Q. How about these other streets you mentioned - Reed Avenue, Newfield Avenue, Dexter Street and so forth? Where are they in relation to Culombe's home? A. Newfield runs off Flatbush Avenue west of Coleman Drive, and Dexter runs off Newfield - on Newfield - north and south, and Dexter is east and west and then a block west on Newfield or on Dexter is Reed Avenue, and Reed runs north and south off Dexter.

Q. Would it be fair to say that all of these streets are in the immediate vicinity of Coleman Drive where Culumbe lived? A. Yes, sir, all within a few blocks.

Q. Will you proceed? A. On Chandler Street he showed us an area where there was a brook running under the street and some heavy shrubbery, and he said he had disposed of some wallets and keys from some of the robberies in this area. He pointed out a spot in the brook where he said he threw a set of keys and papers and pointed to some brush and said he had thrown some papers and wallets in that area. Then we left Chandler Street and drove to Main Street in Hartford.

Q. Before you get there - about the wallets and papers and so forth in the brush, was there anything said about what incident that covered? A. He said - I recall he did say there was a wallet or some papers from a package store holdup.

Q. Was New Britain mentioned at all? A. I don't recall that New Britain was mentioned.

Q. Will you go on from there? A. We went down to Borden's Used Car Sales on Main Street in Hartford where he identified a black 1949 Oldsmobile as having formerly been his and which was used at the time of some of these holdups, and which was used by he and Taborsky in the commission of them, and he pointed to a stove, an iron stove - inside - and said he had disposed of some - a woman's pocketbook and a wallet which was taken in one of the robberies.

Q. Where was that? At Borden's Auto Sales.

Q. Now, anything further done there at Borden's Auto Sales. A. No, sir.

Q. You ultimately left there, and where did you go? A. We returned to the State Police Headquarters.

Q. Do you remember about what time you got there? A. At approximately six-fifteen P. M.

Q. Do you remember what took place after that? A. Yes, sir, we went to the office of Major Riemer and Commissioner Kelly was also present, Lieutenant Rome, Sergeant Paige, I believe Detective Murphy was also there, and I and Arthur Culombe.

Q. What took place there - briefly? A. At this office Culombe repeated some of the details—

MR. McDONOUGH: I object to what Culombe repeated. What he said isn't important. That is a conclusion.

THE COURT: There isn't any question about that. The question is whether it is advisable—

MR. BILL: I could have him repeat it all over again but it seems to save time, I was just trying to do that.

MR. McDONOUGH: All right. I will withdraw the objection.

THE COURT: Go ahead.

THE WITNESS: Culombe was asked about the details of some of these crimes in the presence of Commissioner Kelly and Major Riemer by Lieutenant Rome and he admitted participation in them.

Q. Could it be said that he substantially repeated in front of Commissioner Kelly and Major Riemer what you have related here - in substance?

MR. McDONOUGH: I object to that.

THE COURT: I will sustain it.

Q. Let us leave that conference - it isn't too important anyway. Where did you go then? A. We went to the barracks and had some supper.

Q. And that included Culombe? A. Yes, sir.

Q. And when were you through supper - do you remember about? A. About eight P. M.

Q. And what happened then? A. Later we went upstairs to the Special Services Division.

Q. Who was "we"? A. Lieutenant Rome, Sergeant Paige, Arthur Culombe, Edward Matus and I.

Q. What did you do there? A. We went upstairs and we started to take a written statement from Arthur Culombe.

Q. Did you take some written statements from Arthur Culombe? A. Yes, sir.

Q. And in particular, one concerning this incident - the New Britain affair? A. Yes, sir.

Q. And in what manner were those statements conducted as far as questioning and answers and that type of thing? A. Lieutenant Rome asked Arthur Culombe

questions concerning the details as to their activities and received the answers from Arthur Culombe and then put it in narrative form, and when Arthur Culombe agreed that it was true, I typed it.

Q. And that went on as far as all these various incidents were concerned? A. Yes, sir.

Q. Now, showing you State's Exhibit Z-1 for identification, I ask you if you recognize that - will you look it over and all through, please? A. Yes, sir.

Q. As what? A. That is the statement I typed on the evening of February 27.

Q. And signed by whom? A. Signed by Arthur Culombe, witnessed by Samuel Rome, Donald Paige, Vincent J. O'Brien and Edward Matus.

Q. Referring to this same exhibit, can you tell us about what time that started - that is, the questioning?
A. Ten fifty-five P. M.

Q. What does that mean - the questioning or the statement? A. This statement.

Q. This statement here on New Britain? A. That statement - I started to type it at ten fifty-five P. M.

Q. Now, later were you concerned with State's Exhibit Z for identification to the extent that you can recognize it? A. Yes, sir.

Q. And what is that? A. That is a statement concerning the shooting in New Britain which I later witnessed.

Q. Now, before you witnessed it had you read this State's Exhibit Z? A. Yes, sir.

Q. And having typewritten State's Exhibit Z-1 what relation did you find that had - that is, this one - had to Z-1 which is here at your left? What does that represent,

in other words, in relation to Z-1? We are talking about Z.

A. It is a copy of part of Z-1 concerning the New Britain shooting only.

Q. Do you find that Z leaves out some of Z-1, which is the narrative part of the incident in New Britain, and leaves out the others - or the other incident described in Z-1? A. Yes, sir.

Q. Is that a fair description of what happened?
A. Yes, sir.

Q. All right now, were you there when Culombe signed Z for identification? A. Yes, sir.

Q. And your name appears there as a witness?
A. Yes, sir.

Q Where was that signed? A. At the Hartford County Jail.

Q. And before it was signed was it read to Culombe?
A. Yes, sir.

Q. Did he agree to sign it? A. Yes, sir.

Q. And did he sign it? A. Yes, sir.

Q. What day was that that Z was signed? A. That was on Monday, March 4.

Q. And do you know about the date on this Z - how was that arrived at - February 28, 1957 - 12:30 A. M.? Did you take part in that? A. No, sir, I didn't type that.

Q. I know you didn't, but do you know anything about that February 28, 1957 - was that discussed at all to your knowledge? A. I don't recall that it was discussed in my presence.

MR. BILL: Your witness.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. You didn't type State's Exhibit Z for identification, Officer, did you? A. No, sir.

Q. You went to the jail with Lieutenant Rome on Monday when it was signed by Culombe? A. Yes, sir.

Q. And you took stenographic notes in the car on the way from Culombe's house to State Police Headquarters on Wednesday of the week of the investigation -
A. Wednesday afternoon, yes, sir.

Q. And you took them at the direction of Lieutenant Rome? A. Well, he didn't direct me in those words.

Q. Well, he told you to take notes? A. No, sir, he told Detective Murphy and I to change our position in the car, and I knew his purpose for that.

Q. From that you gathered he wanted you to take notes - you personally? A. Yes.

Q. You went to Culombe's house and did you take any notes at his house? A. Yes, sir.

Q. What notes did you take? A. I made notes as Lieutenant Rome removed a medicine chest in the bathroom and made a note as to what he found in the medicine chest.

Q. Officer O'Brien, what do you mean by notes? Did you take down conversations? A. No, sir, I wrote down what had been found.

Q. Have you no notes of any remarks by anyone in the house? A. No, sir.

Q. Did you make notes of conversations in the car?
A. Yes, sir.

Q. Did Lieutenant Rome tell you to write down or make notes, as you call them, of what was taken in the

house? A. I wrote down what was found and what was taken into custody, yes, sir.

Q. There was a conversation in the house in your presence between Culombe and his wife, wasn't there?

A. When I went into the house Culombe and his wife were sitting in the living room. Others were also present.

Q. A little baby on the couch? A. A little girl was there, yes, sir.

Q. Go ahead. A. I walked through the livingroom in the hallway to the bathroom door. I remained there while the medicine chest was being removed and after what was found behind it, while it was photographed.

Q. I don't think that you understand the question.

MR. McDONOUGH: May it be read?

THE COURT: Yes, read the question, Mr. Burke?

(Question repeated by reporter) "There was a conversation in the house in your presence between Culombe and his wife, wasn't there?"

A. When I walked into the house and into the livingroom and walked into the hallway, and while I remained there there was conversation in the livingroom, yes, sir.

Q. Did you hear the conversation? A. Parts of it I did.

Q. What did you hear? A. I heard Culombe telling his wife that he knew what he was doing, and I think that he told her not to ask him now about what he was doing but that it would all be over.

Q. Is that all that you heard him say? A. That's all that I can recall. I was not listening to the conversation.

Q. You weren't listening to the conversation between a man being held in a murder investigation who had, in

your presence, told about shootings th. t you had made a note of, and you weren't listening to the conversation?

A I wasn't seated listening to the conversation. There was conversation in the bathroom and I was directing my attention between what was going on there.

Q. You were present when a conversation took place between Culombe and his wife, weren't you? A. I was standing in the hallway and could hear some of the conversation in both places, yes, sir.

Q. The hallway isn't very far from even the center of the living room, is it? A. No, sir.

Q. As a matter of fact, using this courtroom as an example, the end of this jury box, if Mrs. Culombe was in the center of the livingroom the hallway you are speaking of would not be any further than where I am standing, isn't that right? A. The beginning of the hallway, yes, sir.

Q. And you could hear what they were saying, couldn't you? A. I heard some of the conversation.

Q. Repeat word for word what was said by Culombe and by his wife. A. I don't think that I can, sir.

Q. Well, if he had said that he had shot someone because he didn't like them you would have remembered it, wouldn't you?

MR. BILL: Objection.

THE COURT: Sustained.

Q. You would have remembered anything, Officer O'Brien, that you considered favorable to the State and you would have forgotten what you considered favorable to the accused, is that the fact?

MR. BILL: Objection.

MR. McDONOUGH: Claim it.

THE COURT: No, I'll allow that.

A. No, sir.

Q. Well, didn't Culombe say this to his wife: "There's one reason I am telling you these things now so they won't be bothering you any more?" Didn't Culombe say that to his wife? A. I don't recall those exact words, no, sir.

Q. Well, would you say that he didn't say that? A. No, sir.

MR. McDONOUGH: That's all.

THE COURT: Mr. Bill, anything further from this witness? Anything further from this witness, Mr. Bill?

MR. BILL: No, Your Honor.

THE COURT: Step down.

MR. McDONOUGH: One other question please, with the Court's indulgence.

Q. You say that you didn't recall those exact words. Do you recall that statement in substance? A. I recall - I thought that I described that when you asked me about conversation that I might have heard in that room. I recall him saying something about not being bothered any more.

MR. McDONOUGH: That's all Officer, thank you.

THE COURT: You may step down.

MR. BILL: I expected to put Detective Murphy on at this time. I understand that he went to Wallingford. Is he here now?

MR. LABELLE: We got him on the radio just a few minutes ago and he said that he would be here in fifteen minutes.

THE COURT: Do you have anything else to go forward with, Mr. Bill?

MR. BILL: No. I was going to wind this up with him.

THE COURT: Do you have any objection to going forward with your evidence?

MR. McDONOUGH: Yes, I wouldn't want to at this time, Your Honor.

THE COURT: Escort the accused from the courtroom.

(Accused escorted from courtroom)

THE COURT: Will you let me know when you are ready, Mr. Bill?

MR. BILL: Yes, Your Honor.

THE COURT: Short recess, Sheriff.

(Recess at 10:50 A. M.)

JUNE 12th, 1957, 11:10 A. M.

THE COURT: Bring up the accused, Sheriff.

(The accused present)

(Jury and alternates not present)

THE COURT: You may proceed when you are ready Mr. Bill?

MR. LABELLE: Detective Murphy.

ROBERT MURPHY, a witness called by the State, having been sworn by Mr. Coburn, testified as follows:

BY THE ASSISTANT CLERK:

Q. Your full name -

MR. McDONOUGH: I wonder, Your Honor, if it would save time, I wanted to call Detective O'Brien back for one question.

THE COURT: Let him be sworn.

THE ASSISTANT CLERK: Your full name?

A. Robert Murphy.

THE ASSISTANT CLERK: And your address?

A. 111 Ulrich Road, Stratford.

THE COURT: Now you may step down a moment.

VINCENT O'BRIEN, having been previously sworn was recalled and testified further as follows:

BY MR. McDONOUGH:

Q. Officer O'Brien, you told the Court that relative to the manner of taking a statement of Culombe on Wednesday night, that Culombe related to Lieutenant Rome, and when Lieutenant Rome was through "I typed it out." Just what do you mean by that? A. Lieutenant Rome asked Culombe questions concerning their activities on that night and received answers from Culombe. After receiving his answers he would make a statement in narrative form and when Culombe agreed that it was true, that one sentence, or two sentences, I typed it.

Q. You mean that he would ask Culombe about a certain thing, a question, and then Culombe would give an answer, is that it? A. Yes, sir.

Q. And then Lieutenant Rome would repeat his answer, is that it? A. Yes, sir.

Q. And then Lieutenant Rome would repeat his answer? A. Would repeat his - well, would make a sentence out of what was said.

Q. Make his own sentence out of Culombe's answer, is that it? A. He would make a sentence out of it.

Q. But it wouldn't be Culombe's words that you heard that were being typed, would it? A. Well, the sentence that Lieutenant Rome repeated to him.

Q. Did he quote Culombe exactly? For example, if he said to Culombe "Were you in New Britain the night of December 15th?" And Culombe said: "I was there about six o'clock", did Lieutenant Rome repeat to you for typing, "I was there about six o'clock?" A. No, sir.

Q. In other words, he didn't use Culombe's words? A. Yes, sir, to a great extent.

Q. But not completely? A. No, sir.

Q. Some of them were his own? A. Yes, sir.

Q. To a great extent they were his own? A. Sir?

Q. To a great extent they were Lieutenant Rome's words. A. No, I think to a great extent they were Arthur Culombe's words.

Q. About how many sentences would Lieutenant Rome - or how many answers would Lieutenant Rome get from Culombe before he would put them together and dictate a statement for you to type. A. Sometimes it would be just one question and answer.

Q. And sometimes more? A. Sometimes two or three.

MR. McDONOUGH: That's all.

THE COURT: You may step down, Detective. All right. Detective Murphy.

DETECTIVE ROBERT MURPHY, having been sworn was recalled to the witness stand:

DIRECT EXAMINATION BY MR. LABELLE:

Q. Detective Murphy, you are a member of the State Police Department? A. Yes, sir.

Q. How long have you been a state police officer? A. Seventeen years.

Q. In your capacity as state police officer did you participate in an investigation concerning the shooting at Kurp's gas station, in New Britain, which occurred on December 15th? A. I did.

Q. When did your participation in this investigation commence? A. On Wednesday afternoon, February 27th, at 2:45 P. M.

Q. And where did you begin your participation? A. At the State Police Headquarters on the third floor.

Q. Do you recall what room you were in at the time when you started this investigation? A. A room that is known as the interrogation or interviewing room.

Q. And who was there in that interrogation room? A. Detective Sergeant Paige, Arthur Culombe, and I.

Q. That is the first that you had anything to do with this New Britain affair? A. That is correct.

Q. When you went into the interrogation room what was the first thing that you did? A. I sat for a few minutes and listened to a conversation between Sergeant Paige and Arthur Culombe. Sergeant Paige had on the table in front of he and Arthur Culombe a sheet of paper that contained a list of various accidents, and he was listing these incidents one by one, or mentioning them to Arthur, and at times or when certain incidents were mentioned Arthur would say: "I don't want to talk about it", and on other occasions he would say: "I wasn't there."

After they had gone through the list I was told that Arthur and Sergeant Paige -

MR. McDONOUGH: "I was told", is that what the witness is saying?

THE WITNESS: That is correct. I was told.

MR. McDONOUGH: Unless it was in the presence -

THE COURT: I take it it was in the very room in the presence of Culombe, was it? A. That is correct. In fact, Sergeant Paige told me th. t he and Arthur were going through this list and that Arthur would state that he was not at a particular location where an incident occurred if he wasn't there, and on other jobs or others his answer would be "I don't want to talk about it".

Q. That was the list that Sergeant Paige was asking - was going through with Culombe, is that right? A. That is correct.

Q. Now, what is the next thing that you did in that room? A. I myself took the list and went through it in the same fashion as Sergeant Paige, with Arthur.

Q. And was Sergeant Paige there at this time?
A. He was for a very short period of time. Then he left the room.

Q. And you were there alone with Culombe?
A. That is correct.

Q. Now tell the Court what happened when you were going through this list? A. His answers were the same to me as they had been to Sergeant Paige. After completing the list I asked Arthur if he didn't want to co-operate.

Q. What did he say to that? A. He said that he did, but it was a big decision to have to make.

Q. And was there discussion further about all of these incidents that you were investigating, particularly with reference for example, to weapons? A. There was.

Q. What was said with reference to weapons? A. I asked Arthur if we were to find the guns, how many we would find.

Q. What did he reply? A. He said that we would find four.

Q. Was there further conversation about that? A. There was.

Q. Tell us the rest of the conversation. A. I asked him if we would find the four guns together? He said no, they would be in different locations. I further asked him if we would find the guns on dry land or under water. He said "Under water". I asked him if the water would be fresh or salt. He said "Fresh". I asked him if it would be necessary to grapple for the guns. He said that it wouldn't be, the water wasn't deep.

Q. Does that complete your conversation with reference to weapons, now? A. Yes, sir.

Q. Was Sergeant Paige in the room at that time? A. I think that he came back into the room while we were discussing the weapons, yes, sir.

Q. Was there further discussion before you left this room. A. There was.

Q. Between you and Culombe? A. Yes, sir.

Q. Tell us about the next conversation that took place between you and Culombe in the interrogation room? A. I asked Arthur why he didn't cooperate with us fully, and he repeated that it was a big decision to make. He further said that he would need time to think it over, it would take time to make his decision. I asked him if he

was reluctant because he was in fear of anyone and he said that he was, he said that he was in fear of Joseph Taborsky. He told me that Joseph had threatened him after the New Britain job, told him he would kill him if ever he talked to the police.

Q. Now, is this the conversation that led up to leaving and going to Coleman Drive? A. That's correct.

Q. Was there additional conversation before you decided to go to Coleman Drive? A. There was.

Q. Tell us that conversation. A. I told Arthur we work along with him and perhaps it would not be known how we gained our information relative to the guns. In fact, I asked him how he wanted us to find the guns and he said "By accident."

Q. Was there conversation about leaving to go to his home or going to where the guns were located? A. There was.

Q. Tell us that conversation. A. He said that he would take us to the location where we would find the guns, and he was somewhat concerned over the car we were going to use. He specified an unmarked cruiser or police car and he was assured that the car he would be in would have no police marker on it. There would be no signs or plates to identify it.

Q. Is this the conversation that led up to the decision to go out to Arthur's home on Coleman Drive? A. That is correct. I believe we left directly after that conversation.

Q. Have you related to us all the conversation that took place between you and Culombe in the interrogation room on February 27? A. To the best of my recollection, I have.

Q. What was the next thing that occurred after this conversation was finished? A. Lieutenant Rome, Sergeant Paige, Detective O'Brien, Arthur Culombe and I got into the police car and we were directed by Arthur to his home.

Q. That is at 20 Coleman Drive in Hartford?
A. That is correct.

Q. Were you all in one vehicle? A. Yes, sir.

Q. Was it a State Police car? A. That's correct.

Q. Who was operating the vehicle? A. I was when we left the Police Headquarters.

Q. You were operating it when you left Police Headquarters? A. That's correct.

Q. Did you operate it until you got to Coleman Drive? A. No, sir, I did not. After driving approximately three or four blocks, I changed positions with Detective O'Brien. I beg your pardon. I was not driving when we left. Detective O'Brien was driving.

Q. Detective O'Brien was driving when you left Police Headquarters and three or four blocks later you changed positions with him? A. Yes.

Q. And you drove the car? A. Yes.

Q. And drove it until you arrived at 20 Coleman Drive? A. I did.

Q. When you were in the car was the conversation with Culombe - was he engaged in conversation? A. Yes, he was.

Q. And the conversation that occurred in the motor vehicle - do you remember whether or not a record was made of that conversation? A. Yes, I believe there was.

Q. Do you recall any of the conversation that occured in the motor vehicle? A. I recall some points or parts of it.

Q. What was the nature of the discussion - what were you talking about? A. The discussion was relative to the double shooting at New Britain - this gas station - Kurp's gas station.

Q. Do you recall anything specific in the conversation Culombe engaged in or any of the words or expressions he used in the car? A. He did give a resume of the incident to Lieutenant Rome, and I can recall him saying that he and Taborsky drove into the gas station; Taborsky got out of the car, entered the station with the attendant. Arthur said he heard a gun shot or gun fired. Taborsky came out of the station, or he was in the act of coming out of the station when a customer drove in. Arthur made some attempt to service the car, and he was then told by Taborsky that the operator of the car might have their marker number, and he said that the operator was called into the station or told to come into the station. Arthur said Taborsky went into the station with the second man, the customer, and he again heard a shot. That is about all I can recall as to the conversation.

Q. Was there also conversation in the vehicle concerning the location of the weapons? A. Yes, sir, there was.

Q. Do you recall any conversation as far as Culombe was concerned - any conversation he had concerning weapons? A. I am of the opinion that while we were enroute to his home he mentioned the medicine chest or cabinet in his bathroom, saying we would find a weapon there. He also mentioned a swampy or marshy area close to his home. That is all I can recall.

Q. So that is all the essential conversation you can

recall that occurred in the motor vehicle that Culombe participated in? A. That is right.

Q. When you got to 20 Coleman Drive what happened? A. I entered Arthur's home - the Culombe home - along with Lieutenant Rome, Sergeant Paige, two department photographers and Detective O'Brien. I sat in the living room with Arthur and his wife and the little girl.

Q. Were you present when conversation occurred between Arthur and Lieutenant Rome - Culombe and Lieutenant Rome? A. Not that I recall.

Q. Were you present when Culombe talked to Lieutenant Rome as to the location of weapons in the apartment - did you see him go into the bathroom, for example?

A. I saw them leave the living room but I didn't know it was the bathroom.

Q. You didn't go into the bathroom? A. No, sir, I did not.

Q. When you were in the apartment were you always in the living room? A. Yes, sir.

Q. Where were you in the living room? A. I was sitting on the divan with Arthur, his little daughter—

Q. Where was Mrs. Culombe? A. She was sitting in a chair in front of us and to our left.

Q. Was there conversation between Mrs. Culombe and Culombe in the living room in your presence?

A. There was.

Q. Can you state to the Court that conversation?

A. Arthur told his wife that he had decided to cleanse his conscience and make a clean breast of things. He said further that he might get life but he wouldn't get the chair, or that Taborsky would get the chair. I think that is what

he told us - he would get life but Taborsky would get the chair. He also mentioned the fact that he didn't want to cause his wife any embarrassment insofar as the neighbors were concerned by having the Police come to his home.

Q. Did he mention - insofar as the neighbors were concerned? A. Yes, sir.

Q. Was there conversation as far as Mrs. Culombe was concerned in response to what Culombe was telling her? A. Yes, sir.

Q. Do you remember anything Mrs. Culombe said to Mr. Culombe in your presence? A. She asked Arthur how he got mixed up in such a thing, and he said it was because of Taborsky, or words to that effect.

Q. Was there any further discussion between Mrs. Culombe and Arthur with reference to the involvement - his involvement in these incidents? A. No, sir. However, he did mention being in fear of Taborsky because of her. He said that he didn't want Taborsky to do her any harm.

Q. He said he didn't want Taborsky to do her any harm - Mrs. Culombe any harm? A. His wife any harm.

Q. His wife? A. That's correct.

Q. Now, were you always in the living room with Mrs. Culombe and Arthur while you were inside the apartment? A. Until we were ready to leave, yes, sir.

Q. Is there any other conversation that occurred between Mrs. Culombe and Culombe in the apartment that you heard? A. Mrs. Culombe did mention the fact that the TV set was not working or not working properly. I recall that the set was not playing.

Q. That is all the conversation you recollect that occurred between Mrs. Culombe and Culombe in the Culombe apartment? A. That is correct.

Q. Now, did you leave the apartment? A. I did.

Q. And where did you go? A. We were directed by Arthur to the intersection of Newfield Avenue and Dexter Street.

Q. And did everyone that was in that party go to Dexter Street and Newfield Avenue? A. Yes, sir.

Q. And when you went there to Dexter Street and Newfield Avenue what occurred? A. Arthur pointed to a swamp or marsh and said that we would find two guns in this marsh that he had disposed of - that he had thrown in there. He pointed out the approximate location of the guns to us.

Q. And that was in front of the entire party?, I take it?
A. That is correct.

Q. Did anything else happen in the area there at the corner of Dexter Street and Newfield Avenue?
A. Not to my knowledge.

Q. And where did you go after you left Dexter Street and Newfield Avenue? A. We drove down Dexter Street to the intersection of Dexter and Reed.

Q. What occurred at that location? A. He pointed out a dump that was filled with water and he stated he had thrown a raincoat or a coat similar to a raincoat type into the water directly after the New Britain incident - that he had disposed of it there because it was splattered with blood.

Q. Did he point out the location where the coat might be? A. He did - he pointed the coat itself out to me.

Q. What did you do? A. I went to the edge of the water and by using a long pole I was able to draw it into the shore.

Q. You brought in the raincoat? A. That is correct - I pulled it by the use of a pole.

Q. And what kind of a coat was it? A. It was a brownish cloth rain repellant coat - I would call it.

Q. You turned that over to the proper authorities as part of the investigation in this case? A. I myself put it into the trunk of the car that I was driving and locked the trunk.

Q. But you subsequently turned it over to your superior officer in connection with this investigation?
A. That is correct.

Q. Is that all that occurred at Reed Street at this location? A. That is correct that is all that occurred.

Q. Where did you go after you left that area?
A. We went back to Arthur's home on Coleman Drive.

Q. What occurred there? A. In the basement of the home he showed us - pointed out a large wooden cabinet and told us that underneath this cabinet we would find a weapon wrapped in paper. We pried the cabinet off the floor and took out a package or a parcel wrapped in paper that did contain a gun that had been mutilated.

Q. You also took possession of that in accordance with your investigation? A. One of the officers present took possession of it. I didn't take it myself.

Q. Is that all that occurred back at Coleman Drive?
A. To the best of my knowledge, yes.

Q. Did you see Mrs. Culombe at that time? A. No, sir.

Q. You didn't go into the apartment at that time?
A. No, sir.

Q. After you left Coleman Drive where did you go? A. We then went to a used car lot on Main Street - I believe the name of it is Hymie's - Hymie Borden's. I beg your pardon. We next went to Chandler Street and Arthur directed us to a culvert on Chandler Street, and he said that in this culvert he had thrown wallets and keys which were taken from the victims at Kurp's gas station.

Q. Was anything found in response to that information at that time? A. A quick search - a cursory search was made.

Q. And then did anything else occur at this location or is that all that occurred? A. Yes.

Q. Then where did you go? A. We went to Hyman Borden's Garage on Main Street.

Q. What happened there at Hyman's Garage? A. Arthur pointed out a car to us parked in the rear of the garage and stated that this was the car he owned and he had used on the New Britain job. He referred to this incident as a job.

Q. Do you recall what kind of a car it was? A. I can't recall.

Q. Do you recall the color? A. I am sure it was black.

Q. Black? A. That is correct.

Q. After you left Borden's Garage where did you go? A. We then returned to State Police Headquarters.

Q. What time did you arrive back at State Police Headquarters, if you recollect? A. Approximately six o'clock - P. M.

Q. When you got back to State Police Headquarters what did you do? A. There was a short discussion in the Major's office with Major Riemer, Commissioner Kelly,

Lieutenant Rome, Sergeant Paige, Detective O'Brien, Arthur Culombe and myself all being present, and we then went into the dining room where we had our supper.

Q. Were you present in the dining room with Culombe? A. I was.

Q. Did you stay with him during the eating hour or time? A. I did, yes, sir.

Q. After you had eaten where did you go? A. We went up to our office on the third floor of State Police Headquarters.

Q. That is the Special Services office? A. That is correct.

Q. And did you continue in this investigation beyond that time? A. No, sir, I did not.

Q. And insofar as your investigation concerning the New Britain matters, which is the subject of this inquiry, is this the only participation you had in the New Britain affair? A. Up until this time, yes, sir.

Q. You had nothing further to do on this date?
A. Not on this date, no, sir.

MR. LABELLE: You may inquire.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. Officer Murphy, you were in the Culombe living room on the afternoon of Wednesday the week of the investigation? A. Yes, sir.

Q. And in the living room with you was Arthur Culombe and his wife and the youngest child? A. That is correct.

Q. And the youngest child was where? A. She was sitting on the end of the divan closest to the kitchen, shall we say.

Q. Wasn't that child sick? A. I don't know.

Q. Did Culombe say the baby was sick and something ought to be done about it? A. Not that I heard.

Q. Wasn't something done about that baby - wasn't it taken to a hospital that night? A. I later heard that, but not to my knowledge at that time.

Q. Well, you heard a conversation between Culombe and his wife, didn't you? A. That is correct.

Q. Did you hear Culombe say to his wife: "There is one reason I am telling you things now so they won't be bothering you anymore."? A. I can't say that he used those words.

Q. What words did he use? A. He said that he didn't want to cause any embarrassment.

Q. Did he use those words? A. Yes, sir, I believe he did.

Q. What else did he say? A. He said that he had decided to clean his conscience or cleanse his conscience and make a clean breast of everything.

Q. I would like to get for the record from you the exact words. Who spoke first, Culombe or his wife? A. Arthur Culombe spoke first.

Q. What did he say, using his words? A. I don't think that I could use his exact words.

Q. Didn't you make a note? A. No, sir.

Q. You are a detective in the Special Service Division? A. That is correct.

Q. You were part of a team endeavoring to get a confession from a man whom you were investigating for first degree murder, weren't you? A. Yes, sir.

Q. Don't you carry a note book with you? A. Yes, sir.

Q. Did you have a note book with you at the time?
A. Yes, sir.

Q. You know notes were made in the car of words that Culombe said which would tie him in with the murder, don't you? A. Yes, sir.

Q. But no notes were made of words of Culombe that would explain why he was making statements, were there?
A. Mental notes.

Q. You know that I am not talking about mental notes, don't you Detective Murphy? Don't you know that?
A. You mentioned notes.
Q. Did you think that I meant mental notes, did you? A. I thought so.

Q. Do you carry mental notes in your pocket?
A. No, sir.

Q. I asked you if you had notes in your pocket?
A. That is correct.

Q. You knew that I was not referring to mental notes, didn't you? A. Yes, sir.

Q. So that when you said just now that you thought that I meant mental notes, you did not mean that, did you? A. I did make mental notes.

Q. You did mean it? Why didn't you make written notes? A. I just don't know why I didn't.

Q. Don't you think that you should have? A. Now perhaps I do. At the time I didn't think so.

Q. Don't you think in fairness to this accused, on trial for murder, notes should have been made of all of his conversations—written notes? A. That's possible.

Q. And it wasn't done, was it? A. Not on my part, no sir.

Q. How many words did Culombe use in his opening statement to his wife? A. I couldn't say exactly.

Q. Tell us the exact words that Culombe used to his wife? A. That he had decided to make a clean breast of things.

Q. You mean when he walked into the livingroom the first thing that he said to his wife - tell me what he said the first thing that he said to his wife? A. The first thing that he said to his wife I would not have heard, because I was not standing alongside of Arthur when he entered the livingroom.

Q. Where were you standing? A. I was perhaps five or six steps behind him.

Q. How far behind him? Five or six steps? In number of feet? A. That would be four or five feet between Arthur and myself as we entered the apartment.

Q. How many officers went into that apartment? A. Approximately six. I can stop and give you an exact number, but I say approximately six.

Q. Who were they? A. Lieutenant Rome.

Q. One. A. Sergeant Paige.

Q. Two. A. Lieutenant Tierney.

Q. Three. We haven't heard his name before. A. He is the photographer.

Q. Four? A. Lieutenant Tierney's assistant.

Q. Five A. Arthur.

Q. We are talking about officers. A. And myself.

Q. Six, including yourself? A. And Detective O'Brien, whether or not he preceded me or followed me I don't know.

Q. Were you at the tail end of the procession?
A. I would say so.

Q. You mean all these officers walked in and they were between Culombe's wife and Culombe? Do you mean that? A. No, sir, I didn't say that.

Q. I understood you to say, Officer Murphy, that you found it difficult to hear because five or six officers were between you - between Culombe and his wife.
A. Between Culombe and I.

Q. Between Culombe and yourself? Were they between Culombe and yourself in duck-like fashion, as ducks walk down the street, one behind the other? A. To a certain extent, yes.

MR. LABELLE: Objected to, Your Honor.

THE COURT: Oh, I will allow it.

MR. McDONOUGH: You know how ducks walk, don't you?

THE COURT: Mr. McDONOUGH, don't question him, too.

Q. Were they walking in that fashion? A. Single file.

Q. Indian file, let's call it that. That is the way they were walking, and because of those men being between you and Culombe you couldn't hear what was said. You want the Court to believe that? A. I do, because that is the truth. I did not hear his first words to his wife.

Q. Then there were words, or a conversation that you

didn't hear? A. Prior to my entering the apartment, yes.

Q. Culombe could have said to his wife, then, for all you know, that "I have decided to tell things so they will stop bothering you. There was one reason I am telling things now, so they won't be bothering you any more." He could have said that to his wife and you didn't hear it?

A. That is correct.

Q. And it is true that Culombe told his wife that he was trying to relieve her of embarrassment with police coming to the house? A. He did not say that.

Q. You used these words, Mr. Murphy, "He did not want his wife any embarrassment so far as the neighbors were concerned by having the police come to the house." Didn't you say that he said that? A. I said that he wanted to save his wife embarrassment as far as the neighbors were concerned.

Q. Is that what you recall about your testimony of five minutes ago, at the most? A. That is correct.

Q. You did say for the record, "By having police come to the house". Do you want to say that you didn't say it?

A. I will not. I may have said it.

Q. And a moment ago you said that you didn't say it. Did you or didn't you? A. I don't believe that I used your exact words.

Q. Well, I am stating that you did. I wrote it down. Don't you remember using those words? A. Yes, sir.

Q. You do remember them, then? And why did you deny it a moment ago? A. I said I didn't think I used them as you did, as you gave them back to me.

Q. I did give them back to you. Won't you accept that you used those words? A. If you copied them down.

Q. But you couldn't remember using them, could you?
A. Yes, I remember using them, but I didn't think that I had used them exactly as you read them back to me.

Q. If you can't remember what you said two minutes ago are you sure that you can remember everything that was said on February 27th, nearly three months ago?
A. It isn't a question of remembering what I said. It is the sequence of my saying it.

Q. Mr. Murphy, I am not asking you about any sequence at all. I am asking you about what was said. Did you understand me? A. No, I didn't.

Q. Was I asking you about a sequence? was that the way that you understood my question? A. As you read it back to me I thought perhaps that that was my exact wording.

Q. What do you mean by sequence? A. Stating first the embarrassment and being bothered, causing her embarrassment, relative to the neigbors by having the police at the home.

Q. You didn't understand me, Lieutenant, to be asking you for the exact words. A. Yes, perhaps I did.

Q. You did understand me then, didn't you?
A. Yes, sir.

Q. But you didn't give me the exact words. You gave me the sequence as you call it? A. That's correct.

Q. Give me the exact words that were used by Culombe. Not the sequence. A. I can't give you the exact words.

Q. Very poor memory you have, is that right?
A. The exactness of the words I can't give you. I can give you the gist of it.

Q. You can give us the exact words of Culombe in the car, can't you? A. No, sir.

Q. You couldn't? You haven't quoted his words correctly or exactly? A. I haven't quoted them, no, sir. I couldn't quote them.

Q. You have given the sequence that you have put together? A. As I can best recall it.

Q. In other words, your testimony about whatever Culombe said at any time during your testimony is not testimony as to what he said, but a sequence that you have created? A. No, sir.

Q. Are they his exact words? A. No, sir.

Q. They are not his exact words? What are they?
A. His words as I can best recall them.

Q. As you can best recall them? But they are not his exact words? A. No, sir, they are not.

Q. You were here when Lieutenant Rome was testifying, weren't you? A. I was.

Q. And Sergeant Paige? A. I was.

Q. And you were present at the interrogation in State Police Headquarters when statements were made by Culombe, isn't that true, that have been testified to? You were present during some of those conferences, weren't you? A. One of those conferences.

Q. And all of the testimony that you heard, Officer Murphy, and all of the testimony that you have given about that one conference, none of that testimony has been Culombe's exact words, isn't that so? A. Yes, sir, I would say some of the words were his exact words.

Q. How many of them? What portion of them?
A. I couldn't say exactly how many of his words.

I am giving you the words or I gave you the wording as I could best remember it.

Q. But all of the testimony that you have heard and that you have given about that conference, that includes Lieutenant Rome's testimony that you heard, Sergeant Paige's, Officer O'Brien's and your own, are not exact quotations from Culombe, are they? A. I can't speak for the Lieutenants and the Sergeant's testimony. I was not present when they spoke to him.

Q. Weren't you present when Sergeant Paige was interrogating? A. Only on one occasion.

Q. I am talking about that one occasion. Don't you understand that, Officer? A. I do now.

Q. Didn't you a moment ago? A I did not.

Q. The question asked you about that one conference, but now you understand it let's go on and I will ask you again about that one conference or interrogation. Is all the testimony that you have given and that you heard Lieutenant Rome give and Sergeant Paige give, the words, the exact words of Culombe?

MR. LABELLE: It is objected to, Your Honor.

THE COURT: Sustain the objection.

MR. McDONOUGH: May I have an exception?

THE COURT: Repetitous. Surely. I'm clear on it, Mr. McDonough.

MR. McDONOUGH: But may I have an exception?

THE COURT: Oh, certainly.

Q. How long did Culombe and his wife talk in the house? A. I'll approximate the time as being fifteen minutes.

Q. What was said in that fifteen minutes? That's a long time to talk, Mr. Murphy. You realize that don't you?

A. Yes.

Q. That is the average length of a reasonably good sermon on Sunday, fifteen to twenty minutes, isn't it?

A. I don't know that, sir.

Q. Don't you listen to sermons? A. I do.

Q. All right.

MR. LABELLE: Your Honor, I think -

MR. McDONOUGH: I'm not claiming it.

THE COURT: Go ahead.

Q. Fifteen or twenty minutes is a long time to carry on the conversation, isn't it? A. I didn't say fifteen or twenty minutes.

Q. Fifteen? A. Yes, sir.

Q. You know fifteen minutes is a lengthy conversation? A. I think that it is.

Q. Well, they said more in that fifteen minutes than you have told us, didn't they? A. Possibly, yes.

Q. What did they say? A. As I previously said Arthur said that he decided to make a clean breast of things, cleanse his conscience.

Q. Go ahead. A. Further that he did not want to cause any embarrassment to his wife. He also said that he was afraid that Taborsky might cause his wife some harm. They also discussed the television set. If there was any further conversation, I can't recall it.

Q. That is exactly a minute and a half it took you to tell us, and that is the sequence. Do you want to tell this Court that it took fifteen minutes to say those things? You

took a minute and a half to tell a fifteen minute conversation? A. I only mentioned the subjects that they discussed.

Q. And what did Mrs. Culombe say about being bothered by the police? A. As far as I can recall she said nothing about being bothered.

Q. You mean you don't recall? A. Her saying anything about being bothered.

Q. Will you swear that she did not say that she was bothered or hoped that she would not be bothered any more? A. I will swear that I cannot recall her saying that she was bothered.

Q. You will swear that you cannot recall? Will you under oath say that she did not say that? A. Not in my presence.

Q. She did not say it in your presence? A. No, sir.

Q. Your hearing is good, isn't it, Officer? A. Very good.

Q. And you were there all during the conversation?
A. Yes, sir.

Q. Do you want it understood that she did not say, in reply to Culombe, "I hope that's the truth and I hope they don't bother me any more." A. I can't recall her saying that, Mr. McDonough.

Q. You won't say that she didn't say this, will you?
A. No, sir, I won't.

Q. Did you hear Culombe say to Sergeant Paige, after Mrs. Culombe made a reply, did you hear Culombe say to Sergeant Paige "Isn't that right, Sergeant? You won't bother them any more?"
A. I did not.

Q. There are a number of things that you didn't hear or don't recall about that conversation, isn't that so?

A. Possibly there are, yes.

MR. McDONOUGH: That's all.

THE COURT: Anything further with this witness, Mr. LaBelle?

MR. LABELLE: Nothing further, Your Honor, with this witness.

THE COURT: All right, you may step down.

MR. BILL: That closes the State's evidence on the admissibility of this.

THE COURT: Are you ready to proceed, Mr. McDonough?

MR. McDONOUGH: May we have a short recess of about five minutes?

THE COURT: All right, escort the accused from the courtroom, please.

(Accused escorted from the courtroom)

THE COURT: Mr. McDonough, do you want a five minute recess? Or do you want me to take a short recess and you tell me when you are ready?

Mr. McDONOUGH: I think that would be better Your Honor. Thank you.

THE COURT: Short recess, Sheriff.

(Recess at 12:00 noon)

AFTER RECESS - 12:14 P. M.

THE COURT: Bring up the accused, Sheriff. (The Accused were present in the courtroom.)

THE COURT: You may proceed when you are ready.

MR. BILL: Before a witness is called, I think I should make it clear about these exhibits, Z and Z-1.

THE COURT: All right.

MR. BILL: I have made some notes on my understanding of the situation and I will make a statement that the State claims that State's Exhibit Z-1 for identification is the confession of Arthur Culombe - I will say the alleged confession of Arthur Culombe - on Wednesday, February 27 and 28; that it contained another incident which, if offered would have to be eliminated because it would be prejudicial to the accused.

It is my understanding that counsel for Culombe has examined Exhibit Z and Exhibit Z-1 for identification and stipulates that the New Britain incident as described in State's Exhibit Z for identification is a copy of the New Britain incident as described in State's Exhibit Z-1 for identification, and that State's Exhibit Z may be substituted by the State for State's Exhibit Z-1 and shall constitute the exhibit which shall be offered in evidence as the alleged confession made on Wednesday, February 27 and early Thursday, February 28th.

MR. McDONOUGH: That is right.

THE COURT: All right, then you may proceed.

MR. BILL: You agree to that?

MR. McDONOUGH: Yes.

Do you have those exhibits for identification I turned over to you last night, Mr. Matus?

I offer the Culombe Defendant's Exhibit 4, which is the warrant and information in the New Britain Police Court now as a full exhibit.

THE COURT: Any objection?

MR. BILL: No objection.

THE COURT: It may be made a full exhibit.

MR. BILL: We are not putting in full exhibits, are we?

MR. McDONOUGH: We can do it.

MR. BILL: Well, the jury isn't here. Do you have to do it now?

MR. McDONOUGH: I didn't think you would object. We want to examine from the exhibit and it can't be examined from as an exhibit for identification.

THE COURT: I wouldn't see any prejudice to anyone in doing it this way.

MR. BILL: I was just thinking. Certainly, you couldn't, for instance, receive the confession as an exhibit here.

THE COURT: Oh, no. Suppose we do this - suppose we don't make it a full exhibit, Mr. McDonough, but the understanding is you will offer it before the jury and I will have it marked?

MR. McDONOUGH: All right, but it can be examined on now?

THE COURT: It can be examined on now, as I understand it.

MR. BILL: That is what we have been able to do with the confession. I understand if it is to go in as a full exhibit it has to go before the jury.

THE COURT: Oh, surely. Suppose we preceed with this understanding - that you may examine on any of the exhibits you have marked for identification. When the matter comes before the jury and if it comes before the jury you may then move to have it made a full exhibit.

MR. McDONOUGH: That will be satisfactory, Your Honor.

THE COURT: All right.

MR. McDONOUGH: Culombe.

ARTHUR CULOMBE, an accused, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Arthur Culombe.

Q. Your address? A. 72 Seyms Street, Hartford.

THE COURT: Mr. McDonough, can I assume for the record that he has been already advised as to his rights and his proceeding thereunder?

MR. McDONOUGH: Yes, sir.

THE COURT: Proceed.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. You are the defendant in this case of State against Arthur Culombe? A. Yes, sir.

Q. And you are now at the County Jail in Hartford? A. Yes, sir.

Q. Being held under a warrant charging you under an indictment of murder in the first degree? A. Yes, sir.

Q. How long have you been at the Hartford County Jail? A. Well, I believe I was there since February.

Q. What part of February? If you don't remember the exact date— A. No, sir.

Q. Was it the beginning, middle or end of February? A. I think it was around the middle sometime.

Q. You were brought there by whom? A. The first day I was brought here - I think was February 26th.

Q. Now, before you were at the Hartford County Jail, brought there on February 26th, were you in custody of Police Officers? A. Yes, I was.

Q. And what Officers? A. Sergeant Paige was one.

Q. Of the Connecticut State Police? A. Yes, Connecticut State Police, and three or four more - I don't recall their names.

Q. Was Lieutenant Rome one of them? A. Lieutenant Rome was one of them.

Q. And when were you taken in custody - first taken away from your liberty and taken away by Police Officers? A. I was taken away in February - I believe it was about the sixth or seventh of February.

Q. What day of the week? A. It was on a Saturday.

Q. And what time on Saturday? A. It was in the afternoon - about two-thirty or three o'clock.

Q. And you were taken- A. Well, at the time I went to Joe Taborsky's—

Q. No. Who were you with at the time you were taken into custody? A. Sergeant Paige and another officer - I don't know his name.

Q. To go back a little further - how old are you?
A. I am thirty-three years old.

Q. And are you married? A. Yes, I am.

Q. Have you children? A. Yes, I have.

Q. How many children? A. Two.

Q. How old are your children? A. Five and thirteen.

Q. Are they boys or girls? A. No, two girls.

Q. Thirteen and five. And were you living in Hartford at the time you were taken into custody? A. Yes, I was.

Q. Where were you living? A. 20 Coleman Drive, Hartford.

Q. How long had you been living there? A. About two and a half to three years.

Q. What is the condition of your health if you know?
A. Poor.

Q. Poor. And how long has it been poor?
A. Roughly about twenty years.

Q. How long? A. About twenty years.

Q. Have you ever spent any time in hospitals?
A. Yes, I have.

Q. What hospital have you been in? A. Bridgewater State Hospital in Bridgewater, Mass.

Q. What type of a hospital is that? A. It is an insane asylum.

Q. When were you there - if you remember? If you don't remember, say so - don't guess? A. In 1939.

Q. And how long were you there? A. About thirty-eight days or so on observation from the Court.

Q. The Superior Court in Massachusetts?
A. Yes.

Q. For observation? A. Yes.

Q. Were you in any other hospitals in Massachusetts?
A. Yes.

Q. What hospital were you in in Massachusetts?
A. Wrentham State School.

Q How long were you there? A. About a year and a half or two.

Q. What type of hospital is that? A. That is for somebody with weak minds.

Q. A mental institution? A. Yes, sir.

Q. How did you get out of there? A. I took off.

Q. You took off? A. Yes, sir.

Q. And then you came to Hartford later? A. Yes, sir.

Q. Now, going back to Saturday afternoon when you were taken into custody that you referred to. what time in the afternoon if you remember - if you don't remember say so - were you taken into custody? A. About two-thirty o'clock in the afternoon.

Q. Who took you into custody? A. Sergeant Paige and some other Officer - I don't know his name.

Q. And where were you when you were taken into custody? A. I was at my home

Q. You were at your home? A. Yes, sir.

Q. Before you were taken into custody did you see Joseph Taborsky? A. Yes, I have.

Q. When - that afternoon? A. Yes, I have.

Q. How long before you were taken into custody did you see Joseph Taborsky? A. Maybe about half an hour or so - if it was that long.

Q. And were you with Joseph Taborsky when he was taken into custody? A. I was with him when he was taken into custody.

Q. Is that the half hour or so you spoke of? A. Yes.

Q. Tell His Honor what happened at that time?

A. Well, at that time Joe and I was coming out of his house and he had two bags with him, one containing liquor - a fifth of liquor.

Q. Keep your voice up so Mr. Burke can hear and Taborsky? A. He had a bag containing a fifth of liquor and a fifth of ginger ale and was coming out of his home and was going down to the railroad station to get a bus home. I was going to bring him there.

Q. What? A. I was going down - he was going down to the railroad station to get a bus to go back to his house.

THE COURT: He said too I was going to bring him there but he didn't repeat it.

THE WITNESS: And the two Officers approached the car. One Officer was Officer Griffin and the other Officer was Moran and he says - I was sitting in the car and Joe went to sit in my car and he says, "This is no arrest or anything like that."

Q. Who said that? A. Officer Moran, I think. He said, "This is no arrest or anything like that - The Lieu-

tenant - or something - wants to question you or wants to show you some pictures or something or another," he said.

Q. Who did he say that to? A. He said that to Joe in front of me. He says, "Will you boys follow our car down to the barracks? And that is what we did. The barracks is on Washington Street. I let Joseph off there and I figured they didn't want to see me and I drove home.

Q. Go ahead. A. Two or three minutes after I am home two policemen come to the door and I was in the bathroom and I don't know what they said to my wife but they got her upset, and somebody knocked at the door - I don't know if it was Sergeant Paige or the other one, and so I came out of the bathroom, and he says,—

Q. Who said? A. Sergeant Paige - he was sitting on the couch and he says, "This is no arrest or anything like that." He says, "We would like to have you come along with us." I says, "For what?" and he says, "Well, they want to show you some pictures," and I says, "Who?" and he says, "The Lieutenant - Lieutenant Rome." So I got in my car and Sergeant Paige got in my car and we drove down to the barracks and I asked him where to park and he says any old place, and I went upstairs and went into the lounge up at the State Police, and one of the Officers says, "You are not under arrest or anything like that and make yourself at home."

Q. Who said that? A. I don't recall that. He is in the courtroom here but I don't know his name. So he turned on the television and there was a basketball game playi g and he says, "If you need to go to the bathroom or anything like that, it is down at the end of the hall and I will show you where it is." So a few minutes after I had to go and I went and he followed me in there. I come out and he followed me back and he says, "What's the score?" I said "I don't know what the hell the score is."

Q. You said what? A. I says, "I don't know what the hell the score is; I am not interested in this crap", and shortly after, maybe half an hour after he started asking me a—

Q. This is the same policeman? A. This is the same policeman - and he was asking me where I worked and I told him I was employed by the Hartford Despatch and he says how long did you work there and I told him about three years, and he says, "The Lieutenant wants to see you", but I didn't see such a thing as he called the Lieutenant.

Q What is that? A. I didn't see anything that he called a Lieutenant at the time.

Q. Go ahead. A. So he says, "Will you follow me down to the other end of the hall?" So I did, and Sergeant Paige says to me, "You look cold with that jacket on, aren't you?" I says "No, I am all right." He says, "Why don't you put this coat on—

Q. What kind of a jacket did you have on? A. A leather jacket - a brown one.

Q. Were you cold with it? A. No, I wasn't. Then he says, "Why don't you put this jacket on - this coat on - " and I says, "For Christ sake, this is too big for me." So I put it on and he says, "Put the other one in the car - the leather jacket." So I did.

He says, "We are going to take you for a ride," and I says, "Where are you going to take me?" and he says, "We are going to take you out to Manchester" - that is what he said at the time. And I am in the car and he showed me some pictures thugs or prisoners who had broke out of State Prison.

Q. What did you say they were? A. Some thugs - pictures, so I says, "I don't know those guys," and he says,

"Didn't you meet them?" and I says, "I didn't meet these guys."

Q. What? A. I says, "I didn't meet these guys before." And he says, "We have got a few matters we got to talk about," and I says, "What do you mean by matters?" and he says, "You know - the places that were being held up, and we want to bring you to see a few things to identify." I says, "Do I have to be identified in this coat?" He says, "That isn't the purpose we gave you this. We give it to you because it was one of the officers." It was all stained and greased up and the goddamn thing was too big for me to begin with.

So, we approached to go into Coventry. As we approached to go to Coventry he pulled into this place - call it a country store - two gas pumps in the front and he says to one of the Officers in there - he says, "I will go in and make believe I am ordering a package of cigarettes." Of course, they have the cruiser there with all the policemen in it.

Q. That was there before you got there? A. Yes, I guess they told them to warn us or some other bullshit.

MR. BILL: Objection. And I move that go out.

THE COURT: Yes, it may go out. Confine yourself to the questions.

Q. They had sent a cruiser there they had already notified because I heard them on the phone, and when they got there they went there first, and shortly after Sergeant Paige, I think, told one of the Officers he says, - "You go in there and buy a package of cigarettes," he says "Come with him," so I went with him and "You and Joe look around like you were going to buy something."

Q. Who did he say that to? A. One of the Officers and he says to me, "You and Joe."

Q. Joe who? A. Joseph Taborsky - "See if you are going to buy anything." So we came out and got in the car and we had a drink of liquor.

Q. Where did you get the liquor? A. The liquor was Taborsky's - he has bought it maybe shortly before in a drugstore or some place and it was taken into that Police barracks too. And then it was taken from the barracks into the cruiser and it was a whole fifth of liquor - maybe two or three mouthfuls out of it, and so we took a drink or two.

Q. In the cruiser? A. In the cruiser.

Q. Was that liquor so that it could have been seen when you went into the barracks? A. It was in a paper bag.

Q. Could the bag be seen? A. Oh, it was a big bag - a blind man could have seen that.

Q. And you drank the liquor in the cruiser?
A. Yes, sir.

THE COURT: Sheriff, you keep order in the courtroom, and if you have to check I will take care of that too.

Q. After that what happened - after you had a couple of drinks? A. Then after that Sergeant Paige and somebody else went in there hushing up somebody - I don't know what the hell it was.

MR. BILL: Objection and move the answer go out.

THE COURT: It may go out.

Q. What you don't know you don't have to tell us. Did you see Sergeant Paige or hear him talk? A. He was talking to the man in the station.

Q. Where was he then? A. He was sitting in the cruiser.

Q. You didn't hear what was said? A. No, sir.

Q. What did you do after that or what did any of the Police Officers do or say? A. One Officer - that Officer Griffin remained in the cruiser with me and only two Officers remained in the store, and I think it was Sergeant Paige came out and stood there and two men came out and were standing between the gas pumps. He told them to.

Q. He told them to stand between the two pumps?
A. Yes.

Q. Who did he say that to? A. Two of the Officers - I don't recall their name.

Q. And who were the two men he referred to?
A. Me and Joseph Taborsky.

Q. Then what happened? A. We stood between the pumps with him and one of the fellows from the store said to Joseph, "How do you like the weather up here?" and he says, "It is fine" and he mumbled something to Sergeant Paige and I didn't hear it. He says, "Tell the men to go back in the car," and we went back in the car and stood there for awhile and then we proceeded to come back to Hartford and took the road to Rocky Hill.

After we got to Rocky Hill there was a lady waiting in the package store and Sergeant Paige says to one of the Offieers, "We don't want to cause any embarrassment; we will wait until she comes out," so after the lady come out, another cruiser was there and they went in first. Shortly after Joe and I and some of the other Officers went around inside the package store.

Q. Were you and Taborsky handcuffed on this trip?
A. No, sir, we was not.

Q. Go ahead. A. Before we went in the store Sergeant Paige says to walk in there like you are going

to buy something, make yourself at home and walk around. So, I says, "Well, you got quite a variety of liquor here," to one of the Officers. I says, "You got all types in here." Then I went out and then I noticed Sergeant Paige and one of the Officers was taking notes in that store or getting a man's statement. I don't know that. So we remained in the cruiser maybe twenty minutes or a half an hour and we finished the rest of the fifth of liquor - we drank up the other half and Joe drank one.

Q. How did you feel then? A. Well, we felt kind of whoozy at that time.

Q. You drank the liquor? A. That is right.

Q. Then what happened? A. The Sergeant - Sergeant Paige says to the Officers, "We ought to get these fellows something to eat - they look hungry." One of the Officers says, "I know a good diner - I think it is in Wethersfield." I don't know the name of it. After we went to get out of the car, Joe says to one of the Officers, "Will you get rid of these bottles - they are dead." We drank them, so they threw them in the ashcan.

Q. Who did? A. Officer Griffin.

Q. This was down at the diner? A. Down at the diner.

Q. Go ahead. A. So Joe went to the bathroom - he had to go - and an Officer followed him in there. Then I went in there and he followed me in there. Then we come out and Sergeant Paige says, "You fellows sit in the booth on the inside at the end there."

Q. What diner was this? A. The Wethersfield Diner, I believe. So we did just that, and he says, "Order anything you want." So we ordered meals and they ordered sandwiches. They paid for their own and Sergeant Paige paid for ours. After we got through he says, "It is kind of

late to go any further. I will call the Lieutenant up or somebody there and tell him we are coming in." So we approached the Police barracks there and I was being brought in one room by Sergeant Paige and Joseph Taborsky was brought in another room by another Officer - I don't know his name.

Q. Before we go on to what happened in the room - that ride you have taken, it has been testified by Sergeant Paige that you and Taborsky were invited on that?

A. Well, I wouldn't call it an invitation - you had no choice.

Q. You had no choice? A. No, that is right - you didn't have no choice but get in that car.

Q. Go ahead. A. We were also told to get back into the car.

Q. You were told what - you were not asked to get back in? A. No, sir.

Q. Was it against your will? A. I didn't want to go. I didn't like the idea of it because before I left the house the wife had dinner already, and everything, and she gave me hell for coming home late. She said "For Christ sake, I got dinner already, where the hell you been?"

Q. You don't have to go into those conversations. Anyway you didn't want to go, right? A. That's right.

Q. And because dinner was getting ready did you tell him that you didn't want to go? A. I didn't have no choice to say anything.

Q. What do you mean, you didn't have choice to say anything?

MR. BILL: I object, Your Honor. I do object to Mr. McDonough leading the witness.

MR. McDONOUGH: I will withdraw the question.

Q. You got back to the barracks? A. That's right.

Q. Tell His Honor what happened at the barracks. Who was there? What room? A. I was in one room where they call interrogation room. You know, it is a little room with panels all over and screens with all little dots on it. It looks like where they plant a recording machine or some other bull-shit in there. So in this particular remained me and Sergeant Paige. Sergeant Paige asked me how long I knew Taborsky, or something or another and when I saw him last.

Q. Go right ahead. A I replied I think I saw him just before he got married. That was once. Another time after he got married. He said "What do you mean by other time?" I said "It was New Year's Eve when he stopped to my house with his wife for five minutes or so, wished me a happy New Year and I haven't seen him since until the day they picked him up that afternoon with me." Then he says to me, "Have you ever been on any hold ups lately?" Or something or another.

Q. Who was doing this questioning? A. Sergeant Paige.

Q. Go ahead. A. He asked me "Arthur, do you have any guns?"And I said "I have a collection of guns." I couldn't say no, because they are registered with the police, they know I had them, they could check them out, these guns were registered, registered with the local and state police. The dealer registered them with the local and state police to cover themselves. That's not all the guns. That's just some of them, I think it is four. So how could I say "No"? So I said "I have a collection." He said "What kind?" I think that I told him there's a thirty-two wasn't in working order, and I think I told him there's four thirty-twos, wasn't in working order, and I think that I told him

a thirty-eight Smith & Wesson, was in working order, two twenty-twos was working order, and I think that's all the guns I told him I had. Of course, I told him that I had rifles and shotguns but he wasn't interested in that. He was only interested in short arms, or something, he said.

Mr. BILL: I object, Your Honor, what he was interested in.

THE COURT: What he was interested in may go out.

Q. Was there any talk about a lie detector test?
A. Sergeant Paige says to me.

MR. BILL: I object, Your Honor, to his leading the witness.

MR. McDONOUGH: Your Honor, I am trying to stop the rambling. I think that it would be better for all of us if we did.

THE COURT: I think it would if you ask him questions. Read the question, Mr. Burke.

(Last question read by the reporter).

MR McDONOUGH: My purpose is to try to avoid -

THE COURT: I think that I will allow it. Overrule the objection.

Q. Was there any talk about a lie detector test?
A. Yes, there was a talk about a lie detector test to me by Sergeant Paige.

Q. Tell us about it. A. Sergeant Paige said to me, he says, "Did you ever take a lie detector test?" and I said "No." He says "You know what it is?" I said "I heard of it." He says "Would you like to take one?" And I said "Yes, sir." Then he says to me "Have you ever been hyp-

notized before?" And I says "No, sir." He says "You know that you could be." I said "I don't know about that."

Q. All right, did you take a lie detector test?
A. No, sir, I didn't.

Q. Was there any talk about you bringing the guns from your home that you had told Sergeant Paige about, to the barracks? A. Yes, there was. I didn't bring them. The other officer brought them in an envelope.

Q. Was there any talk about you going home and getting them? A. Well there was. There was talk about me going home and getting them.

Q. Between you and who else? A. Just between me and Sergeant Paige.

Q. What was that talk? A. Well, like I was asked what type of guns and Sergeant Paige says to me, he says, "I'm going to see if I can get you released and you can bring them back in the morning and we will check them out, but first I got to see who is in charge up here."

Q. Well, then, what did Sergeant Paige do after that conversation? A. Well, he went in the room down the other end of the hall to talk to his Lieutenant, and the Lieutenant sent another officer with him to my house to pick up such guns.

Q. Did you go to the house with the other officers?
A. Yes, I did.

Q. Did you get the guns? A. I got the guns, which were contained in the safe.

Q. Did you get some shells that were shown here?
A. There was two boxes of thirty-twos. They are part boxes, different types of thirty-two shells, I think. They had a box of twenty-two shells.

Q. After you finished looking for guns and shells and other articles in the house what did you do then?

A. And then we went back to the Police State Barracks.

Q. Did you go downstairs with Sergeant Paige?

A. No, I went downstairs with the other officer.

Q. Where was Sergeant Paige? A. Sergeant Paige remained up to my house with an envelope, showing my wife some pictures and some other things that he had in there, questioning my wife.

Q. What? A. He was questioning my wife about twenty minutes or more when I was downstairs.

Q. You were sitting in the car? A. I wasn't sitting in the car. It was Sergeant Paige's car and he had the door locked, and he had the keys for it. I was standing by the cruiser with the other officer, the other officer holding onto my arm.

Q. While the Sergeant was upstairs? A. Yes, sir.

Q. And he came down in about twenty minutes?

A. Yes, sir.

MR. BILL: I move that that part be stricken, where he was questioning the wife. It wasn't in his presence.

MR. McDONOUGH: I was going into that.

THE COURT: Let me rule on it. Do you want to clear it up?

MR. McDONOUGH: Yes, Your Honor.

THE COURT: All right.

Q. Did you hear him questioning your wife?

A. Well, as I was leaving he was questioning my wife.

Q. You did hear him questioning your wife?
A. I did.

Q. Then you went downstairs? A. That's right.

Q. Waited there about twenty minutes? A. That's right.

Q. Did Sergeant Paige come downstairs? A. Yes, he come down, and after he started the cruiser up he says to me, he says "I was talking to your wife, but your wife don't seem to remember about Taborsky being at your house." He told me that.

Q. Then what happened? A. Then we proceeded to go to the barracks and he stopped at a drugstore there on the corner of Washington and Park Street, to have a cup of coffee and a piece of pie.

Q. This was all on Saturday afternoon? A. No, this happened Saturday night, later on.

Q. Oh, Saturday night? A. Yes, that was about six o'clock or after, after we returned to the barracks.

Q. What time did you have something to eat and a cup of coffee in the drugstore after leaving the house?
A. Oh, it was about a half hour after.

Q. And about what time was that? A. Maybe seven or eight o'clock. I don't know, roughly.

Q. And from the drugstore where did you go?
A. To State Police barracks.

Q. Where did you go in the barracks? A. I went in the room, what they call interrogation room, of some kind there.

Q. Who with? A. With Sergeant Paige.

Q. What happened in there? A. Then Lieuten-

ant Rome and two or three other officers was waiting in the hallway when we came in.

Q. Was there a table in that room? A. There's a long table in that room.

Q. And what was on the table? A. They put the guns on the table, what was contained from my safe, plus some masses he took.

Q. Do you mean masks that were worn? A. They were masses I had in the collection.

Q. What are they? A. They are black masses, you know. They use them when it snows and people are up in the mountains, you know, when they are hunting.

Q. What did they use them for? A. It is like a hood, goes right over your head. It covers the whole face.

Q. And they were there with some guns? A. Yes, and three handkerchiefs was there, red handkerchiefs.

Q. What did they do with these? A. Well, and then they had two other guns which should have been in there what I took from the sand box, you know, they had sand on them, and one of the officers was fooling around with them and Sergeant Paige looked at the gun and he says "This gun looks like it is in pretty good shape." He says "It's been oiled pretty well. Full of sand." At first he did not know I got them from the sand.

MR. BILL: I move that be stricken.

THE COURT: The part he did not know, may go out. Go ahead, Mr. McDonough.

Q. Go ahead. A. So one of the officers was fooling around with the guns, spinning the cylinder around there, looking at it, and Sergeant Paige says "You don't look like you got that much sand in the house. I don't know how you got that sand on such good guns as these." And

Lieutenant Rome replied to one of the officers, he said "Get these guns tagged and make a report on them and get them down to Captain Schwartz's office or laboratory", or what you call it.

Q. Captain Schwartz? A. Yes. And I was being questioned by different officers that remained in that room.

Q. Who were the officers that continued questioning you? A. I remained with Sergeant Paige, Lieutenant Rome, three or four - I don't know their names.

Q. What questions did Sergeant Rome ask you, if any? A. He asked me, he says to me, he says, "What did you have such an arsenal like this? It's a small arsenal, that is."And I replied to him, I says "That's no arsenal. That's a collection." And he says "Would you like to get these guns back again after we check them out?" And I says "I sure would." He says to me, he says, "You try and get these guns back." He says "You got to put up a bond. After all, you are a convict, you are not a citizen."

Q. Then what was said next to you? A. And the next thing I was being questioned more about the guns and being questioned about the bandannas. They had two bandannas with holes in them that at one time or another had looked like as if they was knotted, they had wrinkles in them at the ends in the back.

Q. What were the questions that you were asked and who asked them about the handkerchiefs?

A. And then I remember Lieutenant Rome had said to me he said, did you tie this in back of your neck and hold up Leone and shoot him, or have you been using them on hold ups?" And I replied "No, sir." He says "What do you use them for?" I says "Sometimes I go hunting and I use them to wipe off the barrel of the shotgun," and after -

Q. What did Rome say? A. And then, let's see.

He says "We don't believe that crap where you use them to wipe off the gun", or something or another.

Q. What else did he say, if anything? A. And I was being questioned more and more and I was brought in to a room that remained across the hall from there.

Q From the interrogation room? A. Across from the interrogation room. They had an officer there, one of the state policemen, but I don't know what his name, or what rank he was over there. And Lieutenant Rome was discussing with him. He says "I'm in charge of this investigation and I ain't - they put me in charge of this investigation and I ain't going to step on anybody in the department because this job don't mean that much to me." Then the phone in the other room rang, I believe, and he went and took the call in the other room - that is, the other office that Rome was talking to, and then Lieutenant Rome says to me, he was asking me more about the bandannas, and I think at first at that time he has called the Chief of Police in Glastonbury.

Q. Were you there? A. I was there. Wanted the Chief to get in touch with him, or to come down, or some victim had been held up out there. And then he says "Culombe" he says, "start telling us the truth about this". He was asking me about the bandannas, so I just kept talking the way I had and he says "Your a God dam liar." That's what Lieutenant Rome says to me. And shortly after being questioned more and a few other things were said, then I was brought out in the hallway by Lieutenant Rome.

Q. What effect, if any did his calling you that name have on you? A. What, sir?

Q. Did that have any effect on you, what he called you then? A. Well, it did in a way.

Q. What way? A. Him calling me a God dam liar, and all this, but he ain't got no proof of it at that time.

Q. How did it effect you? A. I mean, the way that he threw it at me.

Q. What effect did it have on you? Did it effect you?
A. Well, it hurt my feelings, if that is what you mean.

Q. Go ahead. A. And then I was brought - no, I says to him at that time before I left the room, I says "I want to get in touch with a lawyer as soon as possible." I think I said Attorney McDough, and I says to him, I says "when I go to Court I will bring out the way that I was treated up here," or something or another. And he says "You can do anything you want. The judge won't believe you. They will believe us", or something or other, commotion there. And shortly after I believe that I was taken into a hallway, it's a long hallway, remained three or four other officers, but I don't know their names. Lieutenant Rome says to me, he says "You better start telling us the truth about this or we will knock the fucking truth out of you." Then he says to one of the officers, "Why don't we take him downstairs on the stretcher to the Captain's chair in the boiler room. By the time we get done with him we will accomplish something, or he's not telling the truth", I don't know just what the commotion was. Then I think I did say again "I want a lawyer to see how you operate up here and see what you can do and what you can't do." He says to me, he says, "We can't let you see a lawyer at this time."

THE COURT: We will stop here, Mr. McDonough. Will you escort the accused from the courtroom?

(Accused escorted from courtroom)

THE COURT: Recess until two o'clock, Sheriff.

(Recess at 1:00 P. M.)

AFTERNOON SESSION - June 12, 1957 - 2:00 P. M.

THE COURT: Bring in the accused.

(Accused present in the courtroom.)

THE COURT: Mr. McDonough, I take it you want to put Culombe back on the stand?

MR. McDONOUGH: Yes, Your Honor.

THE COURT: Have Mr. Culombe take the stand, Sheriff.

Whenever you are ready, Mr. McDonough.

MR. McDONOUGH: May I have a moment, Your Honor.

THE COURT: Oh, surely.

ARTHUR CULOMBE, previously sworn, recalled.

CONTINUED DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Culombe, were you questioned by the State Police this noon? A. I was questioned by State Police just now?

Q. Yes. A. I wouldn't say exactly questioned.

Q. Were you approached by the State Police officers? A. I was called by one of them - two of them downstairs.

Q. Did you call them or did they call you - did they come over and talk to you? A. Well, they came over and talked to me in a way.

Q. In a way. Did you ask for them? A. I did not.

Q. Policemen that are in this courtroom? A. Yes, sir.

Q. Policemen that were here yesterday afternoon when I was questioning Lieutenant Rome about your signing a paper without my permission? A. Yes, sir.

Q. The ones who talked to you this morning? A. Yes.

Q. Who were they? A. Well, one of them was an officer on the stand - Murphy, and another heavy set guy - I don't know his name.

MR. McDONOUGH: Your Honor, may I have the last two or three questions before the recess read?

THE COURT. Yes, read them Mr. MacGlashan.

THE REPORTER: I only have the last answer.

MR. McDONOUGH: That's all right. Read that.

(The reporter read the last answer before recess)

Q. And then what happened? A. Then I expected to go to the Captain's Chair in the boiler room - where they are called.

Q. Where what? A. I expected to go to the Captain's Chair in the boiler room - where the lieutenant was referring to.

Q. Lieutenant Rome? A. Yes.

Q. Did he tell you what the Captain's Chair was? A. He did not.

Q Did he lead you to believe what the Captain's Chair was or might be?

MR. BILL: I object to that.

THE COURT: I will sustain it.

Q. What effect did that remark have on you, if any?

A. It had a lot of effects on me. I felt like I was going to be worked over.

Q. Worked over - what do you mean by worked over? A. Well, they would put me in the chair and tie me up and go to work on me.

Q. You did have that feeling? A. Yes, sir.

Q. Were you afraid? A. Yes, sir.

Q. What time was that- A. I could recall; it was late.

Q. It was Sunday night- A. Yes, sir.

Q. In the afternoon or night? A. It was at night.

Q. Then what happened? A. I expected to go to such a Captain's Chair and they were saying they were taking me down to, but instead they brought me downstairs to be booked and put in the cell.

Q. Did you see any other trooper of the State Police when they were taking you downstairs - three of them?
A. The only thing is, as far as I can remember - he says when you get downstairs to see him - or something like that - and he will tell you something.

Q. Then you were brought down to the cell block?
A. Yes.

Q. In the barracks? A. In the barracks.

Q. How long did you remain there? A. All through the night.

Q. Sunday morning what happened? A. Sunday morning Sunday morning, Lieutenant Rome, I guess before he reported for duty, he come downstairs, looked my cell and laughed at me like it was a big joke. Then he give me a dirty look and went upstairs about his business.

Q. Then what happened? A. Then later on - I think it was in the afternoon, I was brought up in another room where they had a whole bunch of witnesses staged around the room.

Q. Before we get to that - do you know anything about booking on Saturday night? A. He said something to an officer about booking me, but I was so upset and disgusted, I didn't care what the hell he did.

Q. Who said that? A. Lieutenant Rome.

Q. Getting back to Sunday, Lieutenant Rome came downstairs to the cell block, and you told us what he did. Then what happened? A. I was booked and I was put in the cell.

Q. Sunday morning? A. That was Saturday.

Q. They put you in a cell. What happened Sunday morning? A. The only thing is, I see the lieutenant looking in my cell and laughing like it was a big joke, and he give me a dirty look and went back upstairs.

Q. Then what happened? A. Then later on after dinner they brought me upstairs in a room where there was a lot of people there.

Q. Who brought you upstairs? A. I believe it was Sergeant Paige.

Q. And there were a number of people there?
A. Well, I don't recall who they was - officers or what.

Q. Was Sergeant Paige in the room with you?
A. One officer come in the room with me - I don't recall his name. Whether Sergeant walked in the room and went out, I don't know. I don't know if he waited for me but then I was brought back to the cell block.

Q. Were these State Police officers in the room?
A. Lieutenant Rome was in there for one thing.

Q. And who else? A. The other officers I can't recall.

Q. How long did you stay in that room? A. Just two minutes - walked in and around and was looked at and I went out.

Q. Did you go to your cell again? A. Yes.

Q. How long did you remain in the cell? A. I guess I remained in the cell until later that evening.

Q. Then what happened? A. Then I was brought upstairs by Sergeant Paige.

Q. Where were you brought to? A. Brought me up to the kitchen that is down back there, the kitchen of the barracks, I guess the entrance door to the kitchen. He says to me, "I'm going to give you your supper." He gave me a sandwich and a glass of milk. Then after I finished that I walked into the lounge where the State Police have a television set and remained in there. There was a Hartford policeman in there and sitting with him was a bookie.

Q. A Hartford policeman and a bookie? A. That's correct.

Q. Who was the bookie? A. Lisco - Dannie Lisco - and he said to me—

Q. Who said to you? A. Sergeant Paige - he says, "Do you know him?" He says, "You tried to break into his joint, didn't you?" And I says, "What's it on?" He is a well known bookie and when he gets in a tight spot, he tells you everything. He says, "What do you mean when you say that", and I says, "Well, he's telling you this, isn't he?" and Sergeant Paige says, "You were seen leaving the scene with two other men", and he referred to one or the

other of the men", and I told him I didn't know the other man, and I says I was alone - I wouldn't try to break into his joint - I might have kicked a window through. And the Hartford policeman replied, "You mean to tell me you were all alone?" and I says, "Yes, sir", and he says, "Do you mean to tell me you would walk into a bee's nest?" He says, "There was a game going on in there, wasn't there?" and I says, "I don't know about that, and he says, "Didn't you see a lot cards around there? What the hell do you think they were doing in there?

Q. Who said that? A. The Hartford policeman, and I said, "Maybe they belonged to the people around there in the parking lot", and he says, "You know there was a game going on in there and you went in there to try to hold it up", and I says, "No, sir". At that time, I think Danny Lisco stepped out in the hall with the Hartford policeman, and I was being questioned by Sergeant Paige. He had a list in his hand of jobs being held up or somebody hurt or some other crap he had. He was asking me about it, and Sergeant Paige says to me, "Where did you get them canned goods?" and at first I told him I bought them from some guy on Front Street, and he says, "You stole them from the warehouse where you worked, isn't that so", and I says, "Well, we will put it that way", and he says, "You should just as well take a lesser rap than a bigger one," and I said, "I don't know what you mean by a bigger one" and he says, "By the time we get done you will know what we are talking about". So I says, "All right". So I was escorted down the hallway by Sergeant Paige and this Hartford policeman and was being questioned about the bee's nest and the bookie joint, and the Hartford policeman says, "He knows that district around there - he knows the place", and Sergeant Paige says, "I know it wasn't you, but that other guy who was with you that fingered the place, isn't that so?" and I says, "I wasn't there". I says,

"He wasn't there either". Then the Hartford policeman says, "Well, Sergeant, we can't lock this guy up on what you got, and Sergeant Paige replied, "That's not enough?" or something like that. Then Sergeant Paige said, "I am about fed up with this guy", and he walked out in the little hall and came back and the Hartford policeman was questioning the people out there. There was people from the other departments in that room. And then Paige remained out in the hallway talking to somebody out there - I don't know who. This Hartford detective, whoever he was, remained in the room talking to me, and he says, "There is no hope talking to you" - he says to me.

Q. Who says to me - Paige? A. No, the Hartford policeman, and then Paige came back in the room, and he says,"You insulted the sergeant's morale and intelligence".

MR. McDONOUGH: I wish that hammering would stop. All right, Sheriff. Will you read the last question and answer, Mr. MacGlashan.

(The reporter read the last part of the answer)

A. And I says, "I did not". "Well," he says, "he is a pretty good sergeant for my business".

Q. Who said that? A. The Hartford policeman, but he ain't even a State cop. After that there, we were - Sergeant Paige says, "I think I tried to treat you pretty decent and go along with you pretty decent, and now you got to insult the morale and intelligence—"and this and that, and then everything remained quiet, and in that room where I was there was a short wave radio set, and there was a hot wire coming in on some kind of a crash - the hot wire was being flashed over the air.

Q. What do you mean by a hot wire? A. There was something about an accident out in Wethersfield - somebody had an accident and a fellow saw a forty-five nickel plated

automatic on the seat of the car, and they had some sort of an argument or statement on the car.

Q. Let us get on with the question about you. We don't want to have a lot of talk about the hot wires on the radio.

MR. BILL: I object to this line of questioning I think he should confine it to what their claim is.

THE COURT: Irrespective of whether he should or not, I will strike out the last answer. Go ahead.

MR. BILL: Thank you.

MR. McDONOUGH: I don't think the State's Attorney should say what I should confine myself to, but I agree that the last answer about the radio ought to go out.

THE COURT: That is why I struck it out.

Q. Go ahead without what went on between the sergeant and the Hartford policeman about the radio and hot wire.

A. Things remained pretty quiet in the room. There was a little door coming into that room and I heard a woman in the other room crying terrible.

Q. What other room? A. That was the room next door to that one.

Q. Where you were? A. Yes, sir. I heard a woman crying terribly as if she wanted to go home to her two kids.

Q. What night was this? A. Sunday night, and I recognized the voice of my wife as she was being threatened by Lieutenant Rome.

MR. BILL: I object to that.

THE COURT: That she was being threatened may go out.

Q. You heard your wife's voice? A. That's right.

Q. Did you hear Lieutenant Rome's voice?

A. I heard Lieutenant Rome's voice, shortly after. In fact, I have seen him at that desk through the crack in the door. He is talking.

Q. You saw Lieutenant Rome and heard his voice?

A. Yes.

Q. Did you hear him say anything? A. I heard Lieutenant Rome asking her about her personal life, and she says to him, "I don't know why you should talk about my personal life; I haven't committed a crime", and he said something more to her, and she said, "I am no angel, if that is what you mean". And at that time it seems to me she was pretty well upset. She said, "If I had a baseball bat I would give it to the whole goddamn bunch of you".

Q. Did you say anything to Sergeant Paige while this was going on? A. Sergeant Paige I don't think— I think he was out in the hall - he stepped out.

Q. Who was in the room with you? A. Just the Hartford policeman.

Q. Listening to this conversation that you told us about, was anything said by either you or the Hartford policeman after hearing what you testified? A. No, he seemed to be - I don't know. He didn't say no more to me - the Hartford policeman, that is.

Q. What else did you - A. Then I heard my wife's voice again, telling the Lieutenant, she said "Let's bet on the ball right here. I want to go home with the two kids. They're being left all alone and its getting late," and I heard another policeman, I don't know his name, but I know him if I seen him, he says "You don't mean that.

Dottie, about the baseball bat," She says "I certainly do", and -

Q. Then what else did she say, if anything?

A. She says "I want to go home". He says "Don't worry, Dot, we will take you home." She says "Just take me out of this door and I'll be all right. I'll walk home."

THE COURT: Go ahead, Mr. McDonough.

Q. Then what happened after that? A. Then after that I was taken down to the cellblock to be booked again.

Q. How did you feel? A. Well, I felt pretty upset that night.

Q. Why were you upset? A. Well, he's got to bring in my wife and threaten her with something she don't know nothing about.

MR. BILL: Objection, Your Honor.

MR. McDONOUGH: I claim it, Your Honor. It is part of our defense.

THE COURT: I will overrule the objection. Allow it to stand.

Q. Then you went back down to your cell?

A. Yes, sir.

Q. Have you any idea about what time of night it was when you were returned to your cell?

A. No, I don't. It was kind of late, and it seemed shortly after I think Joseph Taborsky had come in and told me that he was at the Washington Diner having supper.

Q. You talked to Taborsky? A. Yes, I did, that night in the cell. I am in one end, he is at the other. End, that was.

Q. What happened the next morning, Monday?

A. The next morning, Monday, remained Lieuten-

ant Rome and several of the state policemen. One of them was O'Brien. I remember him. And Lieutenant Rome says "You fellows are going to be brought to court this morning. If you have a chance - if you want a chance to get in touch with your counsel or your lawyer you will have a chance to do so up there." But we wasn't brought into court.

Q. Where were you brought? A. We were brought into the New Britain Detective Bureau where they had a whole bunch of people on each side of the street.

Q. Now, in the Detective Bureau building or police headquarters, where were you brought? A. I was brought into the Detective Bureau. It is a building by itself. With half a dozen desks around on both sides.

Q. And were there people around there?

A. There wasn't any - I mean there wasn't any in the Detective Bureau. The only ones I remember I seen there was a state policeman and some of the policemen I assume from there.

Q. Was there a policeman outside? Were you brought through a crowd? A. We was brought through a crowd.

Q. How big a crowd? A. Well, there must have been a thousand people or so.

Q. You went into the Detective Bureau. What happened in there? A. Well, Lieutenant Rome and another state policeman, I don't recall his name, they went in a room to hatch up something for the next day.

MR. BILL: I move that be stricken, Your Honor.

THE COURT: It may go out.

MR. McDONOUGH: The last part I'll agree upon going out.

Q. Lieutenant Rome and a state policeman went into another room? A. That's right.

Q. And you remained in the room that you had entered? A. I remained in that room, sitting at one desk and Joseph Taborsky sitting at another desk.

Q. What happened? A. They had different photographers there, fellows taking pictures, so one fellow looks at me to try and get my attention and snap my picture in different poses, you know. The first one started at this end, the next one at another end, was flash cameras, all flashing in all directions at us.

Q. Did you agree to that procedure? A. I did not.

Q. Did you object to it? A. Well, I didn't object to it because I didn't know if there was such a thing as, you know, I mean that the press had to - or they put them up to it, I don't know.

Q. You didn't have a lawyer at that time? A. I didn't have a lawyer and I could not get in touch with a lawyer then.

Q. Had you asked for a lawyer? A. I have.

Q. On more than one occasion? A. Two or three.

Q. And you mentioned the lawyer? A. I did.

MR. BILL: Objection, Your Honor.

THE COURT: It is leading, but he did testify to it. It is repetitious.

Q. You were there in the Detective Bureau having pictures snapped by flashlight photography? A. That is right.

Q. How long did you stay there? A. Oh, it must have been a couple hours or so if it was that long.

Q. What else happened besides flashing flashlight bulbs? A. They had a detective sitting across. I didn't know that he was a detective until later. He was staring at me.

Q. He what? A. He was staring at me from a desk, kept looking at me, you know, kind of funny. I didn't know who he was at the time.

THE COURT: Go ahead, Mr. McDonough.

Q. Then where were you taken? A. From there I was taken to the New Britain Police Station, which is a short block away.

Q. What time were you taken to the New Britain Police Station? A. I couldn't recall about th time, but I know it was before dinner time.

Q. What time did you get to the Detective Bureau next to the police station? A. It was in the morning. I couldn't tell you definite the time it was. It was in the morning. Maybe about nine o'clock.

Q. Was it early? A. It was early when we left the barracks.

Q. Later were you taken to the courtroom that morning? A. We wasn't.

Q. You were brought into the building where the courtroom is located, though? A. Yes, sir, we was.

Q. That's in police headquarters? A. Upstairs from there, I believe.

Q. A short distance from the Detective Bureau? A. That's right.

Q. About how many feet? Fifty feet, a hundred feet? A. It might be about fifty feet. I don't think that it is much further.

Q. Were you presented in the New Britain police court that morning A. No, we wasn't.

Q. What happened in the police station? A. They asked me my name and address, where I was born, my parent's name, and so on.

Q. Where did that happen? A. This happened downstairs in the police station.

Q. At the desk? A. At the desk, by one of the officers.

Q. You were booked? A. I was booked.

Q. Then where were you taken? A. From there I was taken in the back to be picture taken.

Q. And fingerprinted? A. And fingerprinted.

Q. And then what happened after that? A. Then I was taken back to the cruiser, into the crowd of people where they remained and back into Hartford where one of the New Britain policemen and a detective remained in the cruiser with me in the back seat.

Q. Lieutenant Rome had said to you "You fellows will have a chance to get counsel this morning." When you were in the New Britain Police station, the building where the Court is located, did you have a chance to get counsel? A. I didn't have a chance to get in touch with a counsel like we was promised.

Q. You were put in the cruiser? A. That's right.

Q. There was a New Britain detective in the cruiser? A. That's right.

Q. Was that a state police cruiser? A. A state police cruiser.

Q. Where did you go? A. Well, there's another part in there also. Joseph Taborsky in my presence was

told the same thing I was, that he could get in touch with his lawyer. He named Bergman at that time, and he couldn't get in touch with a lawyer any more than I could.

MR. BILL: Objection, I move that it be stricken, Your Honor.

MR. McDONOUGH: I claim it.

MR. BILL: He is drawing a conclusion as to what he could do.

THE COURT: As far as Taborsky is concerned I'll strike it out. Go ahead.

Q. Go ahead. A. At the time there we drove to New Britain over where the Teachers' College is and there is a gas station what they call Kurp's gas station, I didn't know the name of the place, and Lieutenant Rome drove in there - I don't know if he was in the car with me, or he was in the car in front of me, but one of the officers in the car says "Do you recognize this place?" And I says "I don't". And then he drove out and drove into Hartford. Then I was being questioned about the bandannas that was found and the masses and that sort of thing.

Q. What? A. I was being questioned about the masses what was found in my possession, and also the bandannas was found in my possession by this New Britain policeman.

Q. Did the New Britain policeman ride into Hartford with you? A. Rode into Hartford in the state police cruiser.

Q. When you got to Hartford where did you go? The barracks? A. I went to State Police barracks, into the diningroom, I believe.

Q. What happened after you left the diningroom? A. We went into the hallway and I think the New

Britain policeman asked the Lieutenant if he could talk to me for a while.

Q. Go ahead. A. And he remained, questioned me, such as "Have you ever been in New Britain before?" And I says "Sometime ago when I was in prison I was a trustee, and I used to go there to deliver goods, and that's the only time that I remember." He says "I see everybody goes in and out here and I should know you if I see you." I said "You don't know me." He was trying to say that he did, and all that sort of thing.

Q. What? A. He tried to say that he recognized me as being in that city, and all that sort of stuff.

Q. Go ahead. A. And then I think I remained down to the cellblock.

Q. How long could you stay in the cellblock?
A. Oh, about an hour, hour and a half to two.

Q. This was Monday afternoon? A. Monday afternoon, yes, sir.

Q. What time did you leave the cellblock, a couple of hours after you went down? A. I couldn't place the time because Lieutenant Rome took my watch away to see if I stole it or not.

Q. Did you go upstairs later? A. I did.

Q. In the afternoon? A. It was in the afternoon.

Q. Tell us about who brought you up and what room you went into? A. Well, I was brought upstairs by Sergeant Paige at the special service at State Police Headquarters. That is the room that they call the special service there, and they had another policeman come in the room later, I didn't know his name, but he seemed to be reading a newspaper, and Lieutenant Rome was in one end of the room with me at the desk and Sergeant Paige remained

at the other end of the room at a desk and the policeman remained in the other corner reading a newspaper. And I was asked by Lieutenant Sam Rome if I read this morning's paper, and I says "I don't have no paper boy." And he says "What do you mean?" And I says "I can't read, anyway." Then he showed me some pictures, what was on the paper of stuff which was taken from my house, such as eight revolvers, and I think two masses, a blackjack, and he says "The New York police is coming down here to see you." I says "For what?" He said "Similar to these masses was used in a crime in New York City, and one of these guns." I says "I don't believe it because the masses were in my possession and they haven't got to New York City."

Then he questioned me about - he said that they had some perfect slugs taken of a gun, and he says the New York police is coming down to see me for first degree murder. I says "I don't know why they charge me with first degree murder. I don't let anybody take the guns and they haven't been used in New York and they are in my presence as a collection" and something or another. And he says to me, he says "Did you ever let Taborsky take a gun?" And I says "No, sir." "Well," he says "We know he lives in New York City." I says "I know he lives there but I did not let him take a gun." And I says "Furthermore, he didn't know that I had such a collection." And a discussion happened and I was called a fucking liar and a son-of-a-bitch and everything else.

Q. He called you that? A. Yes, sir.

Q. Go ahead. A. And he says "Why don't you tell the truth?" And I says "What the hell good does it do? You won't believe me, anyhow." He says "I ought to take one of these clubs and beat you over the fucking head with it.

Q. Did anything happen? A. He did not have a club there, you know what was on the table. It wasn't on the desk or anything like that, and I was being questioned more, and he says "We found" - I think he says "We found some canned goods into your house and while you was locked up here." He says "You know" he says "We can charge your wife with conspiracy if you don't tell us the truth about this and we are going to lock your wife up if you don't," all that sort of crap he told me.

So we were being questioned more and being called more fucking liars and everything else. He pulled up his chair close, he kicked me in the ankles, he took his two feet and drive them into my right ribs, and at that time I says, "Look, Lieutenant, when I go to court this is going to be brought out." And he says to me, he says "You can do anything you want. The judge won't believe you", or some bullshit or another, and at the time I started to cry, I remember, and then Sergeant Paige

Q. You what? A. I started to cry at the time because I was hurt. I also asked at the time, I remember correctly I asked for an attorney and he says "You ain't going to get one until the right time." And Sergeant Paige has got up from his chair and he says "He ain't going to tell you nothing. Why don't you lock the bastard up?" And I was brought downstairs again, brought downstairs, again, locked up.

Q. Was there any conversation or reference to taking a rap? A. Well, there was such a conversation as I remember then. Lieutenant Rome says to me - that was Monday - he says, "You ain't the one we want for this." In other words I ain't the one they want. They want the boss. They don't want me. And he says "You know, the first one gets a statement over to the State's Attorney's Office is the one he gives consideration to." So I said something to him but I don't just remember the words, what they was.

THE COURT: Go ahead, Mr. McDonough.

MR. McDONOUGH: All right, Your Honor.

Q. How about - was there any conversation between you and Lieutenant Rome about the crowd of people that were in front of the New Britain police headquarters? A. There was a conversation.

Q. When was that? A. Monday or Tuesday. I believe that was Tuesday. I believe that was Tuesday. I was brought up and questioned more about the guns, murders, canned goods, conspiracy, and he says to me, he says, "You know when" - that was Tuesday. Of course, we -

Q. We will stay away from Tuesday. Stick to Monday. Was there any reference by Sergeant Paige during that conversation of Monday to your wife? A. Sergeant Paige is the one that said to Lieutenant Rome, he says "Why don't you get his wife and lock her up and he will tell you the truth," and a few mixed words was in there.

Q. What do you mean, mixed words? A. A lot of swearing and everything else. And Lieutenant Rome says "First I want to see how much he cooperates with us first, before I lock her up."

Q. Were you brought downstairs? A. Well, I was brought downstairs, and a few other words, I can't tell you just what they was.

Q. Was there any reference in the conversation what kind of a father you were? A. Well, that occurred on a Tuesday night.

Q. We will stay away from Tuesday. Did you answer Lieutenant Rome at all times that he asked you about matters, or did you refuse at times to answer him?

A. I refused at times and he said "You had better answer when I talk to you."

Q. He said that to you? A. Yes, sir. I told him that I don't want to be bothered, I wanted to be brought downstairs and left alone.

Q. Then what did Lieutenant Rome say in answer to that. A. He says, the answer "When I tell you -"

Q. What? A. That I can't think right now. "When I ask you a question you had better answer me." I said to him "You called me a fucking liar", and I says "If you are going to call me that I don't even want to bother talking to you. I want to be brought downstairs and left alone.

Q. Then what happened or what was said? A. That I just can't remember right now.

Q. Did they continue to question you then? A. Yes, they did.

Q. Was there anything about protection of the law being given to you? A. He says, "Its a good thing the law protects bastards like you or I would work you over properly", or some shit like that.

Q. Did you go back downstairs? A. I went back downstairs.

Q. To your cell? A. To my cell.

Q. And what time were you brought down to your cell? A. It was at night.

Q. Whether or not your wife was in headquarters on Monday night - state police headquarters? A. Well, she was at State Police Headquarters Monday. She was brought into the barracks. I don't know who brought her. Far as I can remember it was Officer Moran and Policewoman Murtha.

Q. Did you see her? A. I had saw her when I was being questioned in the room, and they was across the room from me.

Q. What time were you brought downstairs and locked up Monday? A. That I can't recall the time.

Q. Was it at night or in the afternoon? A. I was questioned in the afternoon. Then I was questioned again at night. So I am kind of confused about that.

Q. Monday night you were finally brought down and locked up? A. For the night, that's right.

Q. What happened Tuesday morning? A. Tuesday morning we were brought up, and Lieutenant Rome and this other officer says, "You are going to be brought to Court this morning. You have a chance to get your counsel."

Q. How many times was that that you had been told that you would have a chance to get counsel?

A. Well, that was twice. That was Monday and Tuesday.

Q. Go ahead. He made that statement, didn't he, and then what happened after that? A. Then we came out of the cellblock, he says "You fellows will have a chance to get in touch with your counsel this morning, you are going to court." So we were brought into New Britain, where there was a mob of people, not as much as there was Monday, but a mob. A mob of people.

Q. Where was this mob? A. This mob was on both sides of the police station, from one side to the other of the whole street, from one end to the other.

Q. Go ahead. A. And we were brought in there and booked on breach of peace charges.

Q. Booked again? A. Yes, sir.

Q. Go ahead. A. And we was brought upstairs and we was put in a cage like two animals, you know, and a lot of people gathered around the cage.

Q. In the courtroom? A. In the courtroom. And I think in front of the cage is two or three state policemen.

MR. BILL: I move that matter about animals be stricken, Your Honor.

MR. McDONOUGH: I claim it.

THE COURT: "Like animals" may go out.

MR. McDONOUGH: I claim that, too, Your Honor.

THE COURT: What?

MR. McDONOUGH: "Like animals". That is our claim, that they were treated like animals.

THE COURT: You may claim it, but I struck it out.

MR. McDONOUGH: May I have an exception?

THE COURT: Certainly.

Q. Go ahead now. A. They had another fellow in the cage there - it seemed to me it was a young fellow - I don't know what he was in for. He was in the cage and Joe and I was in the cage. People were trying to get around in there with TV cameras and taking pictures of us.

Q. In the courtroom? A. In the courtroom, and I think shortly after Joseph Taborsky - after he went into the picture room - the prosecutor's room - I guess it is the room there to see his mother. They had them guys ducking down with cameras taking pictures of his mother walking in and out.

Q. In the courtroom? A. In the courtroom.

Q. How many people were in the courtroom?

A. They had a mob - I couldn't tell you exactly how many.

Q. As far as the Judge's bench is concerned, where was the pen you were located in? A. Well, the cage was over here (indicating) and the judge's bench is over there.

Q. In other words, the cage was in front of the Judge's bench? A. No, no, it isn't in front of the cage - the cage is here and the bench is across the room.

Q. On an angle? A. I wouldn't say on an angle. It might be an angle. I didn't see the bench.

Q. Did you see the bench while court was in session?
A. No, sir.

Q. Could you see the Judge? . A. No, sir.

Q. Could you see the prosecuting attorney? A. No, sir.

Q. Could you see anyone connected with the court during those proceedings? A. Well, not at the time.

Q. Well, during the proceedings - during the court session, could you see any Judge or prosecutor? A. No, sir.

Q. Why? A. Because they had a mob of people in front of the cage and everybody was stirring toward the cage and everything blocking the view going on over there.

Q. Did anyone ask you whether you were guilty or not guilty? A. No, sir.

Q. Did anyone tell you - tell the Judge you wanted a lawyer? A. No.

Q. Did anyone allow you to make a statement?
A. No, sir.

MR. BILL: Objection.

THE COURT: I will strike the answer and I will sustain the objection.

Q. Did you make a statement in court? A. If I made a statement in court? I didn't even have a chance.

Q. Did anyone ask you if you were guilty or not guilty? A. No, sir.

Q. Did you hear any words said by any of the court officials, the Judge or the Prosecutor or the Clerk?
A. No, sir.

Q. Did you hear anyone speak during this court proceeding? A. The only word I heard, but I don't recall who said it, was something like the accused of Culombe and the accused of Taborsky are being charged with breach of the peace, and some future date was set, but that is all I heard.

Q. Did anyone ask you if you wanted a trial that morning? A. No, sir.

Q. Did anyone ask you if you wished to be heard on that date they were asking for? A. No, sir.

Q. Did anyone ask you if you had counsel?
A. No, sir.

Q. Were you given a chance to speak? A. No, sir.

Q. Were you denied the chance to speak? A. Yes, sir.

MR. BILL: Objection and move that the answer be stricken.

THE COURT: Yes, you don't claim that - were you denied a chance to speak?

MR. McDONOUGH: No, I have to agree with the State's Attorney.

THE COURT: I will sustain the objection and the answer may go out.

Q. But you were not asked by anyone? A. I was asked by no one.

Q. Were you represented by an attorney? A. No, sir.

Q. You had asked for an attorney before that?

MR. BILL: Objection.

THE COURT: It is repetitious.

MR. McDONOUGH: Your Honor understands, but of course, I am building a record here too.

THE COURT: I understand that, but as I said to to you this morning, it becomes clear to me after it appears several times.

Q. Then how long were you in the courtroom in New Britain? A. Well, roughly I was in the courtroom - I was in the room -I don't know whether it was the Judge or the prosecutor or who it was - but they were in the room quite some time before I heard about such a thing as breach of the peace, and shortly after we were hushed out, and I couldn't tell you at the time.

Q. You were what? A. Hushed out.

Q. Hushed out? A. Yes, by a crowd of people there - just hushed out among the crowd.

Q. How did you feel? A. I felt goddamn lousy.

Q. Were you afraid? A. Yes, sir.

Q. What were you afraid of? A. The whole mob stirring me all over - I didn't know what the hell was going to happen.

Q. Then where did you go?

MR. BILL: Your Honor, I think this man knows the difference between the words he is using. If he is repeating some words that were said, I think that is perfectly proper, but you can't tell me he knows the difference between the words he is using or doesn't know them and the way they should be expressed. I don't think it is proper.

THE COURT: Continue, Mr. McDonough.

Q. Where did you go after you left the courtroom? A. I was taken out and we went down to a gas station - what they call Kurp's gas station, and from there we remained on the road the long way going to Hartford - down on the Silas Deane Highway to Hartford.

Q. The Silas Deane Highway - that is the road to to Middletown? A. Yes, that is going into Hartford - that Pike - is that what they call the Pike?

Q. I can't tell you. A. Well, we remained on that road going into Hartford and then come over by the park over there - the Bushnell Park and there we remained until the barracks.

Q. What happened when you got to the barracks? A. Well, we were brought up in the dining room and given dinner - what they had - and from there I think we went downstairs.

Q. Were you downstairs long? A. Well, I would say maybe a couple of hours.

Q. This was Tuesday afternoon. Then what happened? A Then I was brought upstairs again.

Q. Who brought you up? A. Sergeant Paige.

Q. Where were you brought to? A. One of the rooms in the State Police Barracks.

Q. Who was in the room when you were brought in?
A. I believe it was just Sergeant Paige and I.

Q. What happened? A. No, that wasn't that room. That was a Special Service room - Special Service that is where that was - in another interrogation room.

Q. Who was there when you were brought in?
A. Lieutenant Rome, Sergeant Paige and another Officer - they switched around - I didn't know the other one.

Q. Anyone else in there? A. Just the two.

Q. How long were you in that room? A. Must have been a couple of hours.

Q. Were you questioned? A. Yes, sir, I was.

Q. Who were you questioned by? A. Lieutenant Rome.

Q. This is Tuesday afternoon? A. Tuesday afternoon.

Q. Up to that time had you signed any papers for the Police? A. No, sir.

Q. Had you given them any statements?
A. No, sir.

Q. Was it your desire to answer questions?
A. No, sir.

Q. Did you tell them you didn't want to answer questions? A. Yes, sir.

Q. Did you want to sign any statements or papers?
A. No, sir.

Q. Had you told them that? A. Well, I didn't tell them in them words maybe - I was pretty well upset.

and I didn't want to tell them in those words - I can't remember that.

Q. You were questioned a couple of hours - who questioned you? A Lieutenant Rome.

Q. Tell us about the questioning on Tuesday afternoon as far as you recall. A. I think there was questioning about different holdups out through the State, and was asked about them. I denied knowing anything about them. I think there was more questions asked about guns, bandannas and masks. There was more threats made about the canned goods.

Q. Who made the threats? A. Lieutenant Sam Rome over there (indicating).

Q. What were the threats? A. "We found some canned goods in your house, and if you don't come clean and tell us all about it, we are going to lock your wife up and charge you with conspiracy. What the hell kind of a father are you?" And all that sort of stuff.

Q. Did you reply? A. After he was telling me, "What the hell kind of a father are you, getting your family involved in all this stuff" - there was more questions - how long did I know Taborsky; when did I see him last and all that sort of stuff.

Q. Was there any talk about recording machines? A. Well, they had talks about recording machines - they had recorded a talk about lynching - being pushed on the mob.

Q. Who did that talking? A. Lieutenant Sam Rome.

Q. What did Lieutenant Sam Rome say about recording machines? A. At that time that wasn't brought up. That was at night.

Q. About being pushed into the crowd - when did that take place? A. That took place after I entered the room and they had a policewoman there, Miss Murtha, and my wife was sitting there and the two kids were remaining across the hallway from the interrogation room, and as I walked in my wife says, "You better start telling them the truth; they know everything", and it seems the policewoman is repeating everything the wife says.

Q. You mean your wife would say something and Miss Murtha would repeat it? A. Yes, right in back of her. I didn't know she was a policewoman. I says at the time I didn't know what this was all about, and the wife says, "You had better tell the truth; they have been watching the house for sometime", and then Lieutenant Rome repeated it and said, "Yes, we have been watching your home and we know everytime Taborsky came over there and when he was carrying a bag we figured it was just an ordinary liquor party" - the way he put it. Then he says to me, "You know those people - they must be hollering lynching." He said, "You could be pushed out - we could have pushed you into the crowd. They want to come in here now." And he says, "You know we have got a recording machine that was planted in your house and know every conversation you and Taborsky was talking about." Also in another conversation he was talking about how he failed to get my car and how those dumb cops lost the trial in my car. He says, "I am going to get a bench warrant and charge you with first degree murder." My wife had went down and started to cry and she says, "I don't believe my husband is guilty of this because he don't have that type of courage if I know him - it is just a trick." She said something at that time - there were a few other words said - and Lieutenant Rome he says to me - I don't know if it was in the presence of my wife or not - he says, "What the hell kind of a father are you? You have

got everything on the table - why don't you get on the bandwagon and start talking?" He says, "Do you want me to get the kids in here and tell how you and Joe Taborsky were talking about this thing in the bedroom, sometimes with the door open and sometimes with it shut? I says, "Yes," so we went over the hall and he said to the little girls, "Honey, come in here and—" - a little girl - my kid is only thirteen years old, "You tell me how they went into the bedroom and talked - Joe Taborsky and your father." He says, "How much proof do you want? Do you want me to get your other kid down here? - my baby five years old. He says to me - this is before that - he says, "You know what we told you about that stuff." He was beefing about the canned goods, but he didn't say the canned goods. I believe he had the record machine planted in there - he didn't mention the canned goods, and the wife was sent out with the policewoman, and he said, "You had better tell the whole fucking truth about this. What the hell kind of a father are you." And he accused me of quite a few things. Then all of a sudden he kicked me in the ankle and grabbed me by the throat and knocked me to the floor. Shortly after I was sent downstairs and I was pretty upset and Sergeant Paige had come down to my cell.

Q. Were you crying? A. Yes, I was and I told Sergeant Paige I want to be left alone and I am pretty well upse and I want to be taken to the County Jail.

Q. Were you taken to the jail? A. I was taken to the jail that night but I was not left alone.

Q. Tell us what happened at the jail? A. Well, at the jail I told the Officer - in fact, it was one of the officers who booked me.

Q. Who did you talk to there? A. The Officer's name?

Q. Yes. A. Officer Steve - I think his name is. Steve Mallie? A. I believe that is his name.

Q. And was there another Officer there? A. Yes, a big heavy set fellow - Sewalski - he was there part of the time.

Q. Did you talk to both of those men that night? A. Yes.

Q. Whether or not they booked you? A. It could be. I went downstairs to the hospital, you know - whatever room that is - and they took my wallet and keys and my pants and coat and all I had and I said to him, "The State cops have worked me over," and he says, "Are you that bad you want to see the doctor right now? I can get in touch with one." I says, "No, I will wait until the morning because I don't think I am hurt that bad."

Q. Before that - did you get anything during the night? A. During the night when I was taken to this cell he gave me four aspirins to dope me up a little bit so I could sleep for the night as I was pretty well upset.

Q. What caused you to be upset? A. Well, the condition I went through at the State Police barracks put on me a terrific amount of pressure.

Q. What about all this conversation with your wife in your presence - did that have an effect on you? A. Well, I was pretty upset like I was before I went down to the cell block and before I went to the County Jail. It was a pretty goddamn lowdown trick to bring your family in and tell you that and tell you this.

Q. Did you say that to him? A. Yes, I did.

Q. To who? A. Lieutenant Sam Rome. That is when he grabbed me by the throat and knocked me to the floor.

Q. Did you tell Sergeant Paige about the treatment you received? A. Yes, I did.

Q. What did you tell him? A. He came downstairs and I was lying on the bed and he says, "I want to talk to you," at that time I says, "Well, I want to be left alone, Sergeant. You treated me pretty well and I want to be left alone."

Q. What did he say? A. I said, "You treat me pretty well at times and I want to be left alone," and I says, "Will you do me a favor and get the hell out of my cell?" I was pretty well upset then. I was telling him about being questioned by the Lieutenant and that he brought my family and was telling me this and telling me that and that he grabbed me by the throat and I just wanted to be left alone and brought to the County Jail. He stayed around the cell maybe twenty or twenty-five minutes and then he left and shut the door and went about his business.

Q. Sergeant Paige testified he treated you as a father or at least that you told him he treated you as a father. Would you tell us about that? A. Well, he was questioning me about different crimes and different things and he talked with me and, what I mean is - he wasn't using any pressure on me, I mean. He might have lost his head a little bit and done some swearing but he didn't use no violence on me or anything like that, but it seemed to me like he figured if he was more intelligent or something or other - he was more smoother than the Lieutenant - he went about it in a different message than Lieutenant Rome did.

Q. How did the Lieutenant go about it? A. He went at it pretty smooth at first and then he started getting rougher and rougher.

Q. As you testified? A. Yes.

Q. Your last testimony about the jail was that you were given four aspirins during the night to quiet your nerves? A. Yes.

Q. Go on from there? A. About the Sergeant treating me like a father - I have said that to him but that wasn't until he got out of the cell and left me alone.

Q. On Tuesday night? A. Yes.

Q. You approved of his getting out? A. Yes and he did just that.

Q Go ahead. You wanted to go back to the County Jail? A. I wanted to go to the County Jail, and after I went to the County Jail two guards came to my cell that morning and they says he wanted to talk to me and I says, "Who?" and he said, "The State Police," and I says, "I told them I wanted to be left alone. I don't know what the hell they are trying to do." They told me he wanted to talk to me at the door going out from the jail. The door opened and they pushed me out the door and I see three or four of them there and I didn't have no choice of saying whether I wanted to go.

Q. You were in the jail Tuesday night as you testified? A. Yes.

Q. Do you know if you were in there under a mittimus from the New Britain Police Court? A. I don't know about that.

Q. Well, you were in court that morning? A. I was in court that morning, yes, sir.

Q. Did you hear Sergeant Paige and Lieutenant Rome testify there was a mittimus committing you to the County Jail? A. Yes, sir.

Q A mittimus was issued on Tuesday and you were locked up in jail Tuesday night? A. That's right.

Q. And you said that you wanted to go to jail?
A. That's right.

Q. And on Wednesday morning you say a guard came and said a couple of state policemen wanted to talk to you? A. That's right.

Q. What did you reply? A. I asked them what the hell they wanted to talk to me about.. I asked to be left alone, I did, the night before.

Q. Then what happened? A. They opened the door and they pushed me out in the hall, like.

Q. Pushed you out in the hall of the jail? A. Yes, sir.

Q. From behind the bars? A. Yes, sir.

Q. What happened? A. There was three or four policemen there, and I recall that Sergeant Paige was there. I didn't say nothing to them, "Why are you taking me back to the barracks for", because I didn't have much choice.

Q. You were being kidnapped from the jail, weren't you? A. Yes.

MR. BILL: May I have that?

THE COURT: Read it, Mr. Burke.

(Last question and answer read by reporter)

MR. BILL: I object to that.

MR. McDONOUGH: If he knows it.

THE COURT: I will sustain the objection. The answer may go out.

Q. You were taken from the jail? A. That's right.

Q. Were you taken by force and against your will?

A. Well, it was against my will.

Q. Did they lay hands on you when they took you from the jail? A. They did not lay a hand on me as far as I can speak of. I recall that they said "Put on this coat."

Q. Did they put handcuffs on you? A. No, sir, they didn't.

Q. What did they do with you? A. Put me in the cruiser.

Q. Where was the cruiser? A. Out in the yard there by the front stairs.

Q. Up to that time you hadn't signed any statements? A. No, sir.

Q. And you didn't want to sign any? A. No, sir.

MR. BILL: Objection, Your Honor.

THE COURT: It is pretty leading, Mr. McDonough.

MR. McDONOUGH: All right, I will withdraw it.

Q. You had told them what you already told His Honor about talking? A. Yes, sir.

Q. Then where were you brought? A. Brought to the police State Barracks.

Q. Wednesday morning? A. Wednesday morning.

Q. And how did you feel? A. I felt pretty upset about the whole Goddam thing.

Q. Were you - upset. What do you mean by that? Were you nervous?

MR. BILL: Objection, Your Honor.

MR. McDONOUGH: It is leading. I will withdraw it.

Q. Just tell me about your feelings. Upset?

A. Well, I was pretty nervous and upset, what was going on, and the depression was put on my wife, my wife being dragged to the Police Department.

THE COURT: Of course, it isn't responsive.

Q. Were you sick? A. Well, I was sick, yes.

Q. In what way? A. My nerves was jumping like a base fiddle.

Q. You were brought to headquarters, what happened when you got to headquarters? A. I was put in a cell downstairs, locked up and later on I was brought upstairs.

Q. Then what happened upstairs? What room, and who was there? A. Well, at the time I was brought up there was Sergeant Paige and Officer Murphy.

Q. Go ahead. A. And Officer Murphy and Sergeant Paige was in the room. We just - so Sergeant Paige - I don't know just how one part went there, but there was something - he had a paper in his hand and he says to me "Art" he says "I want you to stop lying to me," something or another, and then he says to Officer Murphy, he says "Art, I have decided to play a little game." That's what he called it. And so anyhow, we sat at the table, Murphy on one side, me on the other and Sergeant Paige up the other end, and he says something about "Was you there? We will go over this list." And he had a pencil in his hand, and he says "Was you there"? and I'd say "No" what the question he was asking, what he was asking me. I says "No", and he says "Well, you don't want to talk about it, do you?" And I says "No".

In other words, I was practically repeating what he was telling me. And I says to him, I says "What kind - what is this?" And he explained it to me. He says it's a list

about crimes in Connecticut, package stores, hold-ups, murders." He says, "I know you want to tell the truth but somehow or another you don't - something seems to hold you back," or something or another he is telling me, and he says "By this list", he says, "that will help you out." So "Was you there", or "You don't want to talk about it." So that's what we was saying.

Q. Playing a game? A. We was playing a game.

Q. Why do you use that word "a game"? Was that word "game" used? A. That "game" was used by Sergeant Paige. That's what he called a game. In other words he didn't want me to lie to him any more and he figured after we played such a game as he called we won't be lying to each other. At least, that's the way I figured it was.

Q. Why? Was he lying to you?

A. I wouldn't say that he was lying to me, in a way. I was perhaps lying to him, what he says.

Q. He says that you were lying to him? A. Yes, sir.

Q. He wanted you to change your story? A. Yes.

Q. Did you want to? A. I didn't want to. I don't know, it seemed to me that I just don't give a Goddam whatever what happened.

THE COURT: Don't you think that you could confine yourself and use English and strike out some of that profanity? Go ahead, Mr. McDonough.

Q. You played this game, so-called. Tell us what was said? You didn't want to talk, you said. You didn't want to tell him anything. Go ahead. A. So anyhow, "Was you there, Art?" And I replied "No". And then he referred to another question. He says "Wasn't you there?"

And I says "I don't want to talk about it." And it went on from there for some time.

Q. How long? - A. Well, I can't tell you offhand. Maybe a half hour, maybe an hour. I don't know offhand.

Q. Go ahead. A. And I think it was Officer Murphy says "I want to see how this sounds". So I replied to the Sergeant, I says, 'Have you got a recording machine in here planted somewhere?"

Q. You said that to the Sergeant? A. Yes, sir.

Q. All right. A. The sergeant looked underneath the table. He says "I don't see none here anywhere." So by Officer Murphy says "I'll see how this is going to sound", so right away, I mean, I figured that there was a recording machine in there, as he said it. Right there I says "Well" - and then Sergeant Paige, I think, left the room, or something, and Officer Murphy remained there and he took over the list, asking me questions, and he says "I know that you want to tell me the truth, Art," but, he says something or another "Something is holding you back or you are in fear of somebody. You are in fear of Taborsky, ain't you?" That's just what he says.

Q. Murphy said that? A. Yes, sir. And I think I said "Yes," and he says to me, he says - no, I think I says "I just can't make my mind up and I'd like to get the State Attorney over he." He says "who?" I says "Bill", I says, "before I go any further."

Q. You said "I would like to get the State Attorney over here before I go any further"? A. Go any further, yes, sir.

Q. Go ahead. A. And at that time I think that Sergeant Paige approached the room and he says "Do you want to get the State Attorney over here?" And somehow or another he - he says "You want to get the State Attorney

over here?" And I said "Yes, sir." He says "I'll go across the street and see if I can get him. Will that help you to tell your story?"

Q. What? A. He says "I'll go over and get the State's Attorney across the street" - "If I go over" - that's what that was. "If I go over and get the State Attorney, Bill, over here, will that help you to tell the truth?" And I said "Yes, sir, I'll know what's what here," something or another.

Q. Know what's what or something? A. Yes.

Q. Go ahead. A. At that time he says "All right, I'll see what I can do."

Q. Who said that? A. Sergeant Paige. But instead he went down the other end to talk to his Lieutenant.

Q. Rome? A. Rome. And Lieutenant Rome come in the room maybe ten minutes after and he says to me, he says "I can't get the State Attorney, Bill, on the phone. I can't get him nowheres." And he says "If he does come over here he wants to make sure you are telling the truth. Not until then." Some way or another in that form. And I says to him, I says, "Well" I says, "I'd like to talk to County Detective Reardon, Eddie Reardon, if I can't get Bill over here."

Q. Eddie Reardon? A. Eddie Reardon is what I meant to say. And I think that he says to me "Why do you want to see him", of something, and I says "Well, he's a pretty square shooter to me and he goes for facts. He don't go for no sneaky stuff. And I want him over here."

I don't know just what happened, but there was something more went on there, and another thing, I heard this Eddie Matus was mentioned as a representative of the State Attorney's office.

Q. That's the gentleman who sits at the table? That's the fellow with the red hair there. So I didn't know Eddie Matus, what I mean, by that name, but I seen him in that State Police barracks and I noticed any time when Eddie Matus wanted to talk to me Lieutenant Rome has told his men to keep him away from me, somehow or another. I don't know why.

Q. Keep Mr. Matus away? A. Yes, but I didn't know that his name was Eddie Matus at the time. I thought that he was just a state policeman. I see him over there all the time. So what happened, we started to go to my house.

Q. What about getting the State's Attorney for you? How did that end up? A. Well, I did not get the State Attorney. I believe Lieutenant Rome says "We can't get the State Attorney nowheres on the phone and we don't know where he is, and if we feel you are telling the truth we will get him over here," some discussion or another, "And we can't get him here, but when you come back he will be here", somehow or another in that form.

Q. Go ahead. A. So when I did get back to the barracks I did not see the State Attorney Bill, or I didn't see Reardon, but I seen this fellow they call Eddie Matus at the scene. That's the first time I saw Eddie Matus there. I didn't know then until I was introduced he was Eddie Matus.

Then from there on we went around to my house. There was Sergeant Paige, Lieutenant Rome, Officer Murphy, Officer O'Brien. He had a couple of news - I would say they were fellows from the department, they take pictures. And Lieutenant Rome was asking me where I got one of these guns, where did I put one of these guns.

Q. Did you go to the house? A. I did go to the house.

Q. Is that where you first went after leaving the barracks? A. Yes, sir.

Q. Who was in your house? A. When I arrived there?

Q. Yes. A. There was my wife and my baby Sandy.

Q. That is the youngest? A. Yes, sir.

Q. What happened in the house? A. When we first went in the house I wanted to talk to the wife and I looked over at the couch and I seen my baby. She was awful pale, she was shaking like a leaf, and I said something to her and I did not get no answer from her. I seen she was pretty well upset and she was sick, and I seen the wife was kind of nervous and excited and I heard the wife say to the policemen, she says, "Why do you have to have a mob of policemen with my husband like this?" Of course, she didn't know what the outcome was, the story, because I am telling the story. She didn't know that. So Lieutenant Rome says to me, he says, "Where did you keep this gun"? And I told him "In back of this medicine cabinet", and I showed him how to take the screws out so he can get the evidence what he wanted.

Then from there I talked to the wife and the wife came in the bedroom door and I says to her, I says "What's the matter with the baby? Is she sick?" She didn't seem to answer me at all, and from there I sat in a chair in the parlor where the Lieutenant told me to sit, in the other room, while he got what he was going to get, and I stood at the chair. Sitting there on one side of me was Officer Murphy, and Sergeant Paige, and the wife looked pretty upset, and the baby, and every other thing.

I says to the wife, I says, "The only reason, or one of the reasons I am telling you the whole truth, the only reason I am telling the truth about this is so the policemen don't come to the house and bother you any more and get you embarrassment or suffering with the neighbors," or something or another in that form. We remained there talking a few minutes and she says "They been coming to my house several times and bothering me", and this and that. "Well", I says "You don't need to worry about that no more." I says "Isn't that true, Sergeant?" He says "Yes, Mrs. Culombe, we won't bother you any more."

Q. Who said that? Paige? A. Sergeant Paige. Lieutenant Rome called me to the bedroom -

Q. Did you talk to them about your baby and the baby's condition? A. I did not talk to them, I don't believe, then, about the baby's condition, but I did later on.

Q. Later on, when? A. Well, when we got to the barracks, I believe.

Q. What was the baby's condition? A. Very poor.

Q. What was wrong with her? A. Well, her face was pale white, she was nervous, and it seemed to me like her cheeks was sucked in, you know. I know that she was very sick but I didn't know what was the matter, and she was scared stiff like a rabbit like if you had a rabbit cornered, or something, you know. So the wife come to the barracks and saw me for a few minutes, and the policewoman Murtha.

Q. What about a telephone call? Did you hear a telephone call made on the police radio? A. Yes. Lieutenant Rome had called at my wife's request. That was just before we left the house, my wife says to Lieutenant Rome, she says "Will you please send my daughter home to take care of the baby?" And the Lieutenant dispatched that over to the phone. He says "Have a car pick up the Culombe

daughter and bring her to the house and have Mrs. Culombe picked up and brought to the barracks so I can talk to her."

Q. Then you went back to the barracks later?
A. Later on we did, yes, sir.

Q. What time did you get back to the barracks?
A. Well, it must have been after six o'clock.

Q. Did you have your supper there? A. Yes, the Lieutenant went in the Commissioner's department there and asked him if he could get me some supper, I looked hungry, or something or another.

Q. Did he say that? A. Yes, sir.

Q. Go ahead. A. So we had supper. After supper I think that I went downstairs. Then I was brought upstairs, talked with my wife for a few minutes, -

THE COURT: Let's stop here, Mr. McDonough. Will you escort the accused from the courtroom, please?

(Accused escorted from courtroom)

THE COURT: Short recess, Sheriff.

(Recess 3:25 p.m.)

AFTER RECESS — 3:45 p.m.

THE COURT: Bring in the accused.

(Accused present in the courtroom)

ARTHUR CULOMBE, recalled.

(last question and answer read by the Reporter)

CONTINUED DIRECT EXAMINATION BY MR. McDONOUGH:

Q. For a few minutes. This was Wednesday night?
A. Yes.

Q. In the presence of anyone else? A. In the presence of a policewoman who was with my wife, and I think that is all was there.

Q. What was the conversation about? A. I don't know. I believe I said to her — "I told everything or I am telling everything about this whole thing, so they won't come to the house and bother you any more or the kids, bringing them back and forth", and she is telling me if she felt at ease, and she was telling me the kid is very sick, and I says, "Well, I believe the policewoman, Miss Murtha is there, and I believe if you ask her to bring the kid to the hospital she will do that", and the policewoman told me she was a nurse at one time or another.

Q. How long did that conversation last?
A. Oh, about five or ten minutes.

Q. And did your wife appear relieved? A. Well she looked pretty relieved then.

Q. Did you feel better then that you knew they weren't going to your house any more to bother them?
A. Well, I did.

MR. BILL: I object to that. It is leading.

THE COURT: I will allow it.

Q. How did you feel after you learned they would not return to your house and bother them any more after you told them things? A. Well, I felt a little better.

Q. Why? A. Well, I mean the threats and bringing back and forth and they being brought into a matter they don't know nothing about - something I did.

THE COURT: I don't think you understand, Mr. McDonough - I allowed that other answer to stand - and the question.

Q. Had you made up your mind to give a statement?
A. Well, I made up my mind later on.

Q. When? A. Oh, maybe half an hour or an hour.

Q. What were the reasons you made up your mind?
A. Well, the condition - the way the family was being abused for what I did, and the pressure was put on me, and I just wanted to be left alone.

MR. BILL: May I have that answer?

THE COURT: Yes, read it, Mr. MacGlashan.

(The Reporter read the answer)

Q. Now, I show you four pieces of paper marked State's Exhibit Z for identification. Can you read?
A. I cannot read. I couldn't tell you one word on that exhibit.

Q. Can you write? A. No, sir - just my own name - that is all.

Q. What is your full name? A. Full name is Bertram Arthur Culombe.

Q. Can you write Bertram Arthur, Culombe?
A. No, sir.

Q. What can't you write? A. I can't write Bertram.

Q. You can write Arthur Culombe? A. Yes, sir.

Q. Is that all you can write? A. Yes, sir.

Q. State's Exhibit Z - do you know that you ever saw that paper before? A. Well, I couldn't say definitely if I saw exactly that paper.

Q. By looking at it it won't help you any, you mean?
A. Yes, sir.

Q. Can you tell us whether or not this paper, State's Exhibit Z was ever read to you? A. They read from a paper, but I couldn't say if that is the paper.

Q. When was the paper read to you? A. Well, that paper was read in one of the interrogation rooms - what they call.

Q. On Wednesday night? A. It was read Wednesday night to me.

Q. And did you see that paper being drafted or drawn up that was read to you? A. What do you mean by drawn up?

Q. Well, typed? A. Nothing.

MR. BILL: Is that Z-1 or Z?

MR. McDONOUGH: Z.

MR. BILL: We are mixed up here. May I ask what paper he showed him?

THE COURT: He showed him Z.

MR. BILL: And then you asked about Wednesday night?

MR. McDONOUGH: Yes.

MR. BILL: It is obvious that it wasn't drawn up then.

MR. McDONOUGH: I am merely asking in the last question if a paper was shown him.

THE COURT: I think that is what you meant when you asked him, but you asked him whether he knew it was that paper.

MR. McDONOUGH: And the answer was that he didn't know.

Q. But there was a paper shown to you on Wednesday night? A. There was a typing of paper.

Q. There was a typed paper shown to you on Wednesday night? A. Well, a paper was typed on the typewriter.

Q. Was that shown to you? A. I don't know if it was this particular one or not, but there was one showed to me.

Q. How many papers did they show you on Wednesday night? A. Well, there might have been three or four.

Q. Any more than three or four? A. Well, they had some more, but I don't recall.

Q. You remember three or four papers being shown to you? A. Yes, sir.

Q. Were those papers together in one bunch or separate and apart? A. That I can't recall.

Q. Well, showing you State's Exhibit Z-1 - five pieces of paper clipped together. Were a group of five sheets of paper clipped together shown to you on Wednesday night? A. Well, I don't know whether it was clipped together.

Q. Well, tell us what was shown to you. A. They showed me one or two or maybe three or four pieces of paper separately.

Q. Who showed them to you? A. Lieutenant Rome.

Q. Were those papers typed out in your presence? A. They was typed - I don't know if those are the papers, but papers was typed out and was shown to me or read to me.

Q. Were they typed out while you were there to see them being typed out? A. Well, I see him type something out.

Q. Well, the papers that were typed out - were those papers shown to you? A. I believe they was; I ain't sure though.

Q. Well, some papers were shown to you?
A. Yes, sir.

Q. Were they read to you? A. The lieutenant read some papers to me.

Q. Did you sign them Wednesday night? A. Yes I did.

Q. Before you returned to your cell? A. Yes, sir.

Q. Was it Wednesday night or Thursday morning?
A. Well, I think they had both.

Q. When did you first see me? A. I have saw you - Believe it was Saturday at the State Police headquarters - you was introduced to me by Lieutenant Rome.

Q. Lieutenant Rome introduced me to you? A. Yes.

Q. And did he say to you I was the attorney you wanted to see? A. Yes.

Q. Did he tell you I had been appointed your attorney by the Court? A. Yes, sir.

Q. Are you sure it was Saturday or Friday?
A. I am confused on that now - it was one or the other.

Q. Was it late in the afternoon and dark? A. It was just about getting dark, I believe.

Q. It was either Friday or Saturday, as you remember?
A. Yes.

Q. When was the next time I saw you? A. The next time I saw you was Sunday afternoon, I believe.

Q. The following Sunday? A. Yes, sir, you went down to the cell.

Q. In the cell block? A. Yes.

Q. Did I advise you regarding the signing of any other papers? A. Yes.

Q. What did I advise you? A. You told me not to sign any more papers and not to bother talking to the police, and I believe Lieutenant Rome was present when you told him you don't want him bothering me any more, and said you were assigned to the case by the State's Attorney and Judge Bordon, I believe.

Q. How about your being transferred to the jail? A. On that day I was transferred to the jail on your request, Sunday.

Q. Did you see Lieutenant Rome and another State Police officer on the following day - Monday? A. I did.

Q. Where did you see them? A. At the Hartford County jail.

Q. And under what circumstances - what happened?

A. Well, Lieutenant Rome had a privilege, he said - said - "We didn't come here to question you, and I guess this is okayed by your attorney. It is all right", so he says, "I didn't come to ask you any questions or didn't come here to try to frame you or anything like that". That is all he says. He says, "All we want you to do is sign the papers", so I said, "I thought I signed it with the confession that he claimed at that time". I says, "I believe I signed them all, didn't I?" He says to me, "Well, there is two of them you didn't sign - you forgot to sign", and he read something to me, and I don't know - I was kind of suspicious about it, or nervous, - I know that I was nervous, and so I signed the paper. I think one of the officers that was with Lieutenant Rome - I think it was Officer O'Brien - or something - was there, and I just signed the paper and went to my cell and they left.

Q. Did you say anything to the lieutenant about your attorney telling you not to sign anything?

A. I believe I said that my attorney didn't want me to sign anything and to let me alone, and he says, "He knows about this and I guess it is all right", or something or another.

Q. Were you treated by a doctor at the jail?

A. Yes, I was.

Q. When? A. Let's see - I was brought in there Sunday I was treated by the doctor on Monday, Wednesday, and I guess Thursday.

Q. Monday, Wednesday and Thursday - or Wednesday and Thursday. A. I believe it was Monday, Wednesday and Thursday, or it may be Friday instead of Thursday. I can't be sure, but I have left my name with the head jailer at the desk, and I told him I couldn't sleep at night and give him the reason why and told him I wanted to see the doctor. I told him three or four times before I seen the doctor.

Q. When did you leave word you wanted to see the doctor? A. I believe I left word Sunday night and again, on Monday morning when I was brought to the cell. Then I think it was Monday or Tuesday when the doctor came to my cell with two of the guards.

Q. Did you take any medicine while you were at the jail? A. Yes, I have took it - some kind of liquid - I couldn't tell you the name of the stuff, but it was to settle my nerves, and then I told him I got awful pains in my side and my back, and he examined me with the things you put in your ears, and he says, "You are pretty well upset, aren't you? and I says, "Yes, sir", and he says, "This will quiet your nerves", and he give me this stuff to drink.

Q. Did you say anything about your side or your ankles? A. I don't recall.

Q. Were there any marks on your sides?

A. There was no marks on my side - just a slight red mark.

Q. How long did that last? A. That lasted about a week.

MR. McDONOUGH: No further questions.

If Your Honor please, may I, before Mr. Bill begins his cross examination, call Dr. Kardys. He is busy and is under subpoena, and he will only be a few minutes.

THE COURT: Do you have any objection?

MR. BILL: No.

THE COURT: All right, step down.

JOHN A. KARDYS, a witness on behalf of the accused Culombe, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. John Albert Kardys.

Q. Address? A. 49 Pilgrim Road, West Hartford.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Doctor, you are a practicing physician and surgeon in the City of Hartford? A. I am.

Q. And have been for how long? A. 27 years.

Q. What hospitals are you attached to?
A. St. Francis, Hartford, McCook Memorial.

Q. Are you designated by this county as the physician for the Hartford County Jail? A. Yes, I am.

Q. Have you seen, or attended or treated Arthur Culombe? A. Yes, sir, I did.

Q. The witness who just left the stand? A. Yes.

Q. Tell His Honor when and where and what treatment you gave him and what were his complaints.

A. I treated him one Sunday. I don't remember the exact date - in his cell - approximately two o'clock in the afternoon on a Sunday. He was complaining of feeling faint, nervous and of pain in his stomach in the higher part of his stomach. While in his cell I obtained a history from him. He seemed to be remorseful about the situation he was in, plus the unpleasantness he caused his wife and children, and he was complaining of the stomach pain he had high up in the abdomen.

Q. Did he say anything else to you? A. No.

Q. Did he say anything about being beaten?
A. No.

Q. Did he say anything about being kicked?
A. No, sir.

Q. Did he say he couldn't sleep? A. No.

Q. What were his complaints? A. They were of nervousness, pains in his upper stomach - the epigastric region. Chest examination did not bear out anything but nervousness.

MR. McDONOUGH: That's all.

CROSS EXAMINATION BY MR. BILL:

Q. You knew something of the history of Arthur Culombe? A. I did from what I read in the papers.

Q. And that was on Sunday, March 3? A. I don't remember the exact date.

Q. Had you heard this man had confessed to murder?
A. Yes, I did.

Q. You knew that when you went to see him?
A. Yes, I did.

Q. So that it must have been the Sunday after you had heard he had confessed? A. Yes.

Q. Did you find anything about this man that you wouldn't expect to normally find about a man who had been accused of murder and had confessed to it?
A. No, sir.

Q. Did you see any marks on him? A. No.

Q. And you didn't question him about being beaten, did you? A. I did not.

Q. He was remorseful, you say? A. Yes.

Q. That wasn't unusual under the circumstances, was it? A. No, sir.

Q. You say he was remorseful because he had caused his family this trouble? A. That is what he stated to me.

MR. BILL: That is all. (witness excused)

BEN RAPOPORT, a witness called by the accused Culombe, having been sworn by Mr. Coburn, testified as follows:

BY THE ASSISTANT CLERK:

Q. Your full name? A. Rapoport.

Q. Will you spell your last name?
A. R-a-p-o-p-o-r-t.

Q. And your address? A. 610 West 145th Street.

Q. In New York? A. New York.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Rapoport, you are serving a sentence at the county jail? A. That's correct.

Q. And you were in February and March of 1957? A. Yes.

Q. Are you a trustee there? A. Yes

Q. Were you acting as a trustee when Arthur Culombe came into the jail February 26th, 1957? A. Yes.

Q. Any of your duties as a trustee take you into the jail hospital? A. No, sir.

Q. Have you seen Culombe in the jail hospital? A. No.

Q. Have you had anything to do with the obtaining of pills or any administration to him? A. No.

Q. You know nothing about him? A. I don't know anything about him.

MR. McDONOUGH: That's all.

MR. BILL: No questions.

THE COURT: You are excused, Mr. Rapoport.

MR. McDONOUGH: Mr. Culombe, resume the witness stand.

ARTHUR CULOMBE, having been previously sworn, was recalled and testified as follows:

THE COURT: Cross examine, Mr. Bill, whenever you are ready.

MR. BILL: Yes, just a moment, please.

CROSS EXAMINATION BY MR. BILL:

Q. What time of the afternoon was it when you and Taborsky were picked up at Park Terrace at his mother's

home by Officer Moran? A. Maybe it was about two. I couldn't tell you definitely.

Q. That was on a Saturday afternoon, wasn't it?
A. That was on a Saturday afternoon.

Q. And do you know dates? February 23rd, do you remember that? A. Well, I couldn't tell you dates.

Q. We'll skip that. Now, as I understand it, you followed these two officers along in your car and you were driving, weren't you? A. Yes, sir.

Q. And had they asked both of you to come over to headquarters, or just Taborsky? A. No; just Taborsky.

Q. And when you got to headquarters you dropped off Taborsky and then you proceeded on your way home, didn't you? A. Yes, sir.

Q. And when you got down to your house you shortly went into the bathroom there, didn't you? A. Well, I went in the bedroom and then I went in the bathroom later.

Q. How soon after you got down to your home did Sergeant Paige and Riemer appear? A. Well, I didn't know Riemer at that time, –

Q. Another officer? A. — by that name.

Q. Another officer came down with Paige?
A. I'd say maybe about two or three minutes.

Q. After you arrived there? A. Yes; it was shortly after.

Q. And you were in the bathroom or went into the bathroom when you heard them at the door, is that right?
A. Yes, sir.

Q. And you went in there and did something about the cabinet, didn't you? A. Yes, sir.

Q. You hid a gun there, didn't you? A. Well, I hid a brief-case there.

Q. All right; you hid a brief-case there. Was there a gun in the briefcase? A. Yes, there was.

Q. And that gun had been used on some job, hadn't it? A. Yes, sir.

Q. And that's why you rushed down to the house and got right in there and started to hide it, wasn't it?
A. Yes, sir.

Q. And it was after you got that hidden that you then answered the door and you saw it was Sergeant Paige and some other officer? A. The way it was, I heard a bang at the door.

Q. You heard a bang? A. And at that time as I heard the bang at the door I surmised it was the police, I mean.

Q. That's why you were hiding that gun so fast, wasn't it? A. Yes, sir.

Q. Now, after you got back up to headquarters, how long after you had gotten there before you said - you asked for a lawyer? A. Well, it was after we come back from our journey, what they call.

Q. When you went over to Coventry and Rocky Hill?
A. Yes, sir.

Q. Up to that time you hadn't said anything about a lawyer, had you? A. No, but I wasn't charged with anything.

Q. And were you later charged with something?
A. Well, I was charged with something.

Q. What was it, do you know? A. Well, I couldn't tell you offhand.

Q. When was it? A. It was Saturday.

Q. In the evening? A. No - Later in the evening, yes.

Q. Had you said anything about a lawyer up until the time that you were charged with something? A. Yes, sir.

Q. You had? A. Yes, sir.

Q. Before that? A. Before that. During the questioning. Before I even was brought downstairs to be booked.

Q. In other words, you said nothing about a lawyer, you claim - A. Well -

Q. Wait a minute. On this trip to Coventry and Rocky Hill nothing was said. Then you returned to headquarters, is that right? A. That's right.

Q. Did you have dinner after that? A. We had dinner at some diner in Wethersfield there.

Q. Then you came back, and how long after you had been back there at headquarters did they start questioning, if they did? A. Oh, as soon as we got back.

Q. As soon as you got back? A. Yes, sir.

Q. And how long after you got back and they started questioning did you speak of a lawyer? A. Well, I'd say maybe a half hour.

Q. A half hour? A. Yes, sir.

Q. And why did you wait for a half an hour before you asked for a lawyer? A. Well, I didn't ask for a lawyer for the simple reason right away - I waited that long because I was being accused of something, and after I was being accused of something I wanted a lawyer then.

Q. What were you being accused of? A. Well, I

was being accused of using such guns that they had, and being accused of murder.

Q. You had been accused of murder then?
A. Yes, sir.

Q. And who had accused you? A. Who had accused me of murder?

Q. Yes. A. Lieutenant Sam Rome.

Q. And what murder had he accused you of?
A. The way it was, I think it was at that time I was being asked about such jobs and then being accused of murder after that.

Q. Now, you remember that during this trial now, here, you helped out Mr. McDonough with notes so he could take notes here to ask Lieutenant Rome questions, isn't that right?

MR. McDONOUGH: Just a minute, please. This is objected to.

MR. BILL: I am asking him.

MR. McDONOUGH: I object to it.

MR. BILL: I claim it.

MR. McDONOUGH: That drags me into the controversy and I shall have to state whether he did or did not. The State's Attorney would assume, from seeing other counsel pass me notes, that Culombe wrote -

MR. BILL: No; I can ask him what he told his lawyer.

MR. McDONOUGH: You cannot. That's confidential, if it may please the Court.

MR. BILL: I'm not asking the lawyer.

THE COURT: First of all I'll decide who should speak, and when. I'd like to hear, if I can hear, everything; but

I can't hear what two voices are saying at the same time. The privilege is one that the client is entitled to claim; not the attorney; as you well know.

MR. McDONOUGH: I know I can advise my client in Court not to answer.

THE COURT: Of course you can, but there is nothing to prevent Mr. Bill from asking him. However it seems on a preliminary matter, on the question of the admissibility of evidence, it puts counsel in the position where he might have to testify, and it doesn't seem to me -

MR. BILL: I'll withdraw the question.

Q. You were here when Mr. McDonough was asking Lieutenant Rome whether or not you asked for a lawyer? You were here in the Courtroom, weren't you? A. If I was here when he asked - Will you repeat that again?

THE COURT: Read it, Mr. Burke.

(Last question read by reporter.)

A. I imagine I was.

Q. Well, you know, don't you? You've got a good memory. You were telling all these facts that took place three months ago. Do you mean you can't remember whether you were in the Courtroom? A. I was in the Courtroom. Where else would I be if I ain't in the Courtroom?

THE COURT: Don't answer, Mr. Bill. And don't ask Mr. Bill any questions, because he can't answer. Go ahead, Mr. Bill.

Q. Don't you remember when your lawyer, Mr. McDonough, was asking Lieutenant Rome the question, "Didn't he ask you for a lawyer that Saturday evening?" You remember that, don't you? A. That's right.

Q. And do you remember Mr. McDonough, when he was asking Lieutenant Rome, ever mentioning any lawyer's name? A. He didn't mention any lawyer's name; no.

Q. No. A. But he knows I asked for a lawyer.

Q. Who knows it? A. He knows it. Lieutenant Rome knows it.

Q. I am not asking you about that. You didn't hear Mr. McDonough ask Lieutenant Rome if he asked for a particular lawyer - that you asked for a particular lawyer by name, did you?

MR. McDONOUGH: Object. It's immaterial and irrelevant what he knows, whether I did or did not ask Lieutenant Rome.

THE COURT: I'll overrule the objection because it is clearly permissible cross examination. Will you read the question, Mr. Burke?

(Last question read by reporter.)

A. Lieutenant Rome didn't say no particular lawyer.

Q. No; you don't get the question. You heard Mr. McDonough here in Court ask Lieutenant Rome if you didn't ask for a lawyer? You heard that question, didn't you? A. Yes.

Q. And you didn't hear Mr. McDonough, when he asked that question, ask Lieutenant Rome if you asked for a particular lawyer, did you? A. I didn't hear that question.

Q. You didn't hear Mr. McDonough mention his own name as being a lawyer, did you? A. I think I did.

Q. What's that? A. I think I did.

Q. You did? Here in the Courtroom? A. I think I did. I don't know.

Q. You don't know? A. No, I don't know. I think I did.

Q. I thought your memory was very good, Isn't it?
A. I wouldn't say it is.

Q. When you just testified you said you asked for a lawyer, "I think I asked for Mr. McDonough."
A. I think I asked for him.

Q. You don't remember that, do you, whether you did or not? A. There's so many things, how are you going to remember everything?

Q. You don't remember that, do you? Isn't that right?
A. I can't say.

Q. No. That's right. And how long were you questioned that Saturday night? A. About two or three hours, roughly. I don't know.

Q. So you got to bed early that night, didn't you?
A. Got to bed at midnight.

Q. What time do you usually go to bed? A. When I feel tired I go to bed.

Q. You go to bed sometimes at midnight, don't you?
A. Go to bed before midnight; sometimes I go to bed after midnight.

MR. McDONOUGH: What was that answer?

THE COURT: Read it, Mr. Burke.

(Last question read by reporter.)

Q. And Sunday you went to bed about the same time? A. Are you talking about when I'm locked up or are you talking about when I'm home?

Q. I as talking about at the barracks. You know that, don't ou? A. At the barracks I don't have no choice, at the barracks.

Q. You said you went to bed about twelve o'clock at the barracks? A. About midnight, roughly. I don't know. I ain't got no watch. He's got my watch.

Q. The next day was Sunday. I think that's the time that you said Lieutenant Rome came downstairs where you were? A. When was that? Sunday morning?

Q. Yes. A. Yes; Lieutenant Rome came downstairs.

Q. And he just laughed at you? A. Sure he laughed. He thought it was a joke.

Q. He didn't talk with you at all that morning?
A. No, he did not talk to me that morning.

Q. When was the next time that he talked to you?
A. Well, he may have talked to me in the afternoon, Sunday. Of course, I can't say; you know.

Q. And the conversation then pretty much was about you and Taborsky being together, wasn't it? A. Well, I think that took place Saturday.

Q. What's that? A. I think that took place Saturday.

Q. That took place Saturday? A. Yes; during the questioning and all the other stuff.

Q. And you told the police officers that you had only seen Taborsky twice, as I remember it, is that right?
A. Yes, I told - I seen him in October before he got married.

Q. Yes? A. And I told him I had saw him New Year's Eve, and Saturday they had at present.

Q. And that wasn't the truth, was it? A. That was at that time that I told him, regardless of what I told him before. That was at that time I told him.

Q. But when you told him you had only seen him those two times, that was a lie, wasn't it?

MR. McDONOUGH: I object. It isn't material in this inquiry whether those things that were told were the truth or not. What is material in this examination is what he told and why he told it. We're not going to try the case itself.

THE COURT: I'll have to sustain the objection on the ground that he has already testified not to two, but to three times; In October before he was married, New Year's Eve, and the Saturday when they were arrested. That's what he just finished testifying.

MR. BILL: I assume he saw him that day. I was talking about prior to that.

THE COURT: The question isn't clear. I'll sustain the objection.

Q. When they asked you about - It was three times you told him you had seen him? A. Yes, sir.

Q. And that was before he was married in October, and on New Year's Eve, and then on the day they took you down to headquarters? A. That's right.

Q. And that wasn't the truth, was it?

MR. McDONOUGH: I object.

A. I can't answer that.

MR. McDONOUGH: Just a moment. I object on the ground that this examination is not to determine the truth or the untruth of what he said.

THE COURT: No; but it's cross examination, anyway. It could go to his veracity and credibility. So at the present point I'll have to overrule the objection.

MR. McDONOUGH: May I have an exception?

THE COURT: You may.

Q. You mean you don't remember? A. I wouldn't say I don't remember, I just don't want to answer such a question.

Q. You don't want to answer it? A. That's right.

Q. Can't you answer it? A. I don't want to.

Q. Can you answer it? A. I can't say.

Q. Now, wasn't there questioning of your wife about that same day when you went back there after the guns? A. Are you referring to Sunday?

Q. No, Saturday? A. Yes, sir.

Q. Did the police talk to your wife on Saturday? A. Yes, sir.

Q. And they asked her about Joseph Taborsky, didn't they? A. At least that is what Sergeant Paige told me.

Q. Didn't you hear them questioning your wife? A. I heard Sergeant Paige say a couple of words to her as I was leaving.

Q. And you knew they were talking about Taborsky, didn't you? A. I did.

Q. Do you know what your wife said about Taborsky? A. No, the only thing I knew was said was what Sergeant Paige told me.

Q. What did he tell you? A. He says, "We asked your wife about Taborsky" - well, I don't care to say that - but he said, "We asked your wife about Taborsky and she says he hasn't been here."

Q. And then when you got back you were taken up to the interrogation room and that was where they had the

table there with the guns and masks and so forth?

A. That's right.

Q. And that is when you said Lieutenant Rome called you a goddamn liar and that it hurt your feelings?

A. That is right - it was in the room across from there.

Q. And after that you went to bed and that closed it?

A. I wouldn't say it was that close - there was more questioning. I remained in the room there with Sergeant Paige to be questioned more and Sergeant Paige says to me, "They are checking your guns out with tests" - or something - he says.

Q. How long was that for? A. Well, I didn't even watch the watch that night, so I couldn't tell you that.

Q. Now, what time on Saturday - that first Saturday - what time did you go back to the house after those guns?

A. I couldn't tell you the time definitely right now.

Q. What had you talked about before you went down after the guns? A. I don't remember.

Q. Had you been accused of anything? A. Well, I wouldn't say I was accused of anything at that time.

Q. Had you asked for a lawyer at that time?

A. I asked for a lawyer when I got back.

Q. Back from where? A. From my home.

Q. How long after you got back did you ask for a lawyer? A. How long did I after I got back? It might have been half an hour - it might have been an hour - I can't tell you offhand, I don't know.

Q. So on Sunday there was no interrogation in the morning at all - no questions? A. Well, I didn't say there was - in the afternoon - later on.

Q. Later on in the afternoon? A. Yes.

Q. I think you said you were taken upstairs and a lot of people were looking around and Officers? A. The people were looking at me not the Officers.

Q. And then you had been taken down to the Officers' barracks and given sandwiches and milk? A. Yes.

Q. That is all that happened before you went to supper, wasn't it? Did you tell us anything else? A. I don't know if I was questioned more.

Q. You don't remember now? A. I don't remember now.

Q. So, as far as you know you went down to supper after that? A. I went upstairs for supper.

Q. You went upstairs for supper and then it was after that that this bookie - you called him Lisco, or some name like that - Danny - was there? A. Yes, he was sitting in the room with a Hartford Policeman.

Q. And that is when you claim you heard your wife's voice in the next room? A. It wasn't at that time - it was when we got through that conference.

Q. It was that same afternoon? A. It was that same afternoon later.

Q. How long afterwards? A. Maybe an hour, maybe half an hour. I couldn't tell you the time right now.

Q. When did you see Lisco - that was after supper, wasn't it? A. I couldn't tell you the time there.

Q. Was it before or after supper? A It was after I had the sandwich and glass of milk.

Q. It was afterwards. Do you think it was around six o'clock? A. I can't remember the time right now.

Q. Was your wife there in the afternoon or evening?

That is what I want to know. A. Afternoon? I know she was there in the evening; I don't know about the afternpon.

Q. The time you are talking about is in the evening anyway? A. It was after supper, right.

Q. Did you see her? A. When the door opened--

THE COURT: Wait a minute. Do you remember the question.

THE WITNESS: You start over again.

(The Reporter read the last question and answer)

A. I did - not to talk to, that is.

Q. You saw her? A. That's right.

Q. Where was she? A. In the room - it is in the room where the lieutenant - I didn't know then - the room where the policewoman is that has all the gadgets and what not.

Q. Was there anybody with her? A. There were three or four state policemans with her.

Q. Do you recall who they were? A. I recall County Detective Eddie Matus at the table there - he isn't there now.

Q. He was there? Who else was there?
A. Lieutenant Rome was there.

Q. Anybody else? A. There were three of four other policemans - I don't know their name.

Q. Was the policewoman there, Miss Murtha?
A. I don't recall; I didn't see her.

Q. Could you see the whole room? A. I don't say I could see the whole room, but the room was open part of the way, I could see part of the room.

Q. Who opened the door? A. Detective Matus.

Q. Did somebody go into your room? A. Detective Matus came into the room where I was - not to talk to.

Q. But he came in there? A. Yes.

Q. Did he leave the door open when he came in?
A. He left it open part way. That is why I knew what was in there.

Q. Did you call to your wife or attempt to see her?
A. I didn't attempt to see her.

Q. How far away from the door were you?
A. Just a short ways. You see, at the time when the door was opened I was back down the other end, and of course, I can't tell how many feet it was, or anything like that, but I was just down the other end when the door was open and could see when County Detective Matus came in with that short wave and went back in the other room and the door was left open part way and I seen what was going on in that room. The reason I saw that -

Q. What did you see? What was going on?
A. I seen Lieutenant Rome questioning the wife and I seen the wife very upset.

Q. Could you hear what they said - either one of them?
A. I did.

Q. What were they talking about? A. Well. Lieutenant Rome - in the short time I remember in that room - he was asking my wife about her personal life, and she says to him: "I don't know why we should talk about my personal life - I didn't commit a crime - he did."

Q. She said who committed a crime? A. She said I committed the crime - why should she be bothered instead of me. So at that time she was crying - she was well upset -

she wanted to go home with her two kids. I recall that. The kids was left all alone.

Q. Now, on Monday - that is when you went down to New Britain? A. Monday morning.

Q. And you were booked down there? A. Yes, sir.

Q. And you went over to the gas station afterwards? A. Afterwards, yes, sir.

Q. Kurp's Gas Station? A. I didn't know the name. I learned the name after. They told me the name - they told me - I didn't know the name.

Q. You had been there before, hadn't you? A. I don't answer that.

Q. You don't answer that question. Did you tell them you had been there before? A. At the time I didn't.

Q. What did you say? A. They says to me: "Do you recognize this place?" and I says, "I don't recognize this place; I never been here before." That is what I told them at that time.

Q. Then you went back to the State Police barracks and had dinner, is that right? A. That's right.

Q. And some New Britain policemen questioned you? A. That's right.

Q. And you went down to the cell block for an hour or so? A. That's right.

Q. And then you went up to the Personal Service Room - Sergeant Paige took you up there? A. That's right.

Q. That is when you were talked to about the New York policeman? A. Well, the way it was like I say, it was after I was asked if I read the paper, and I says I don't have a paper boy. Do you want to go on from there or what?

Q. No. Was there a policeman there from New York at that time? A. No, there was not.

Q. They just talked about it? A. Yes.

Q. Was there a club in that room at that time?
A. There was no club in the room.

Q. And you say Lieutenant Rome said something like this - that he ought to beat you over the head with a club? Did he say that? A. Yes, sir, - "And see how you like it".

Q. That didn't frighten you, did it? A. Well, what would it do to you?

Q. It didn't frighten you, did it? He told you he wasn't going to do it? A. He might have had one in the desk.

Q. You were frightened you say? A. I wasn't happy.

Q. But you didn't see any clubs? A. No.

Q. And he didn't make any move toward you, did he?
A. Not at that time he didn't.

Q. Then I think you said you mentioned talking about the canned goods, is that right? A. Yes, sir.

Q. How long were you in that conference?
A. I can't recall.

Q. How long were you in that Personal Service room? A. Well, maybe two or three hours, I can't recall right now.

Q. And there was discussions about the canned goods?
A. Yes, sir.

Q. Did you tell him you had taken the canned goods?
A. Well, I told him I took the canned goods from the

warehouse, but I believed - maybe I didn't say it before - but I believe like I said - I bought them from a guy on Front Street and figured it was just another story, according to him.

Q. It was just another story? A. I mean according to the way the police felt - just another story I trumpted up. They wouldn't believe what I told them, of course. And so he continued and continued about such a thing, and so I says, "All right, if you say I stole them, then all right, I stole them. Let's go on from there".

Q. You agreed to that? A. Agreeing, that is right.

Q. You wouldn't agree on the other crimes?
A. There was more pressure on the other crimes. This was a little matter. They didn't care about the canned goods any more than the man in the moon.

Q. You didn't say to them "I will agree to those"?
A. On the canned goods?

Q. On the other crimes? A. That I will what?

Q. That I will agree to that? A. I said I would agree on the canned goods - that if you tell me I stole them, I stole them. That is just the intention I told him.

Q. Well, Rome told you, you said, "It is too bad the law protects bastards like you or I would work you over", or something like that? A. He did.

Q. Well, he was telling you he wasn't going to work you over, isn't that the same thing? A. I didn't think he was kidding.

Q. He said the law protects you - if it wasn't for the law he would do it. He didn't say he would do it, did he?
A. He remarked - he says - "It's a good thing". This is after I got a kick in the ankles and in the ribs.

Q. This was after? A. This was after, and then he says, "It's a good thing the law protects bastards like you or I would finish you", or something like that.

Q. Who was there when he kicked you on the ankle? A. I think Sergeant Paige was in the room. I would say he was looking - he might have been looking out the window.

Q. Did you yell out? A. Well, I didn't say nothing.

Q. What did you say? A. I says when I go to court this will be brought out in court - the way I was treated, and I asked for a lawyer again and I started to cry.

Q. Was it brought out in court? A. That is what I am doing now.

Q. You were over here in court before Judge Bordon? A. I didn't have no choice over at the barracks.

Q. You were here before Judge Bordon? A. Yes.

Q. And you said you would cooperate? A. Yes.

Q. Did you tell him what Lieutenant Rome had done? A. I had no choice.

Q. You heard Taborsky speak up? A. I wasn't here when he was up.

Q. He asked you if you wanted to cooperate. Why didn't you say, "No, he kicked me".

MR. McDONOUGH: I object to that.

THE COURT: I will sustain the objection. Strike out the last answer.

Q. You remember being over here on Thursday? A. Yes, I remember when they served the bench warrant.

Q. Thursday, February 28 in this courtroom before Judge Bordon on the bench? A. Yes.

Q. And he asked you if you would be willing to go back to the State Police Barracks and cooperate with the police, didn't he? A. Yes.

Q. Why didn't you speak up and say no - "From the treatment I got over there - they kicked me and roughed me up"? A. Because the difference was on the time and the confession was signed - so what the hell is the difference in not going on with the original. The damages was all done. What else are you going to tell the judge?

Q. Well, it is done now, - why are you testifying?

A. And when he asked about that caravan business and we covered the Rosenthal and the Cohen and those things, and then they issued a bench warrant. What are you going to do?

Q. Now, on Tuesday afternoon you were with Lieutenant Rome and Sergeant Paige, weren't you? A. That's correct.

Q. And that is when your wife was there - sometime?

A. That wasn't the afternoon; that was late in the afternoon.

Q. About what time? A. I couldn't tell you the time.

Q. Well, your wife was up there telling you to tell the truth and get this thing over with, wasn't she?

A. Yes.

Q. Isn't that what she told you to do? A. Yes.

Q. And she was upset because you were not telling the truth? A. I wouldn't put it that way. She was upset because the police were dragging her back and forth and accusing her on top of it.

Q. She had reason to suspect - hadn't she told you she suspected you of those crimes? A. She never said that to me.

Q. After the North Haven matter didn't she tell you and Taborsky she suspected you? A. No, she didn't.

Q. She didn't? A. No.

Q. Didn't she tell you the night of the North Haven matter that she had been listening to the television and when she heard that and she knew you fellows had gone off that she suspected that it was you two that were doing that?

MR. McDONOUGH: I object. There is no evidence about any North Haven matter.

THE COURT: I Will sustain it.

MR. BILL: It has to do with this whole picture, Your Honor.

THE COURT: I understand, but I will sustain it.

Q. This is now back to headquarters on that Tuesday. She was getting pretty mad at you, wasn't she, because you weren't telling the truth? A. She wasn't getting mad exactly at me even though I wasn't telling the truth I wouldn't say that she was getting mad at me. She was getting mad at the abuse that she was getting. Why don't you talk about that fact?

Q. That was because you weren't telling the truth, wasn't it? A. No, they kept dragging her back and forth to the barracks, like a hound dog, for Christ sakes.

Q. Do you know how many times they took her over to the barracks? A. I can remember from Sunday until Tuesday.

Q. How many times? A. Of course, they wasn't doing it in front of me. They was doing it when I didn't know what I was doing, but I knew what they was doing.

Q. You didn't know? A. I know what they were doing.

Q. How many times did you see her over there? A. How many times did I see her over there?

Q. Yes. A. I see her Sunday night when she was all upset. She didn't see me to talk to, but I know that she was there.

Q. When else did you see her? A. When did I see her? Tuesday night.

Q. And when else? A. When did I see her after that?

Q. Yes. A. I saw her the night that there was such a thing as a confession.

Q. That was Wednesday? A. That's right. Then I saw her again Saturday.

Q. We are talking now before the confessions. You saw her three times? A. That's right.

Q. Did you know that she had asked to come over there to talk to you? A. If she asked to come over?

Q. Yes. A. Sunday night Lieutenant Sam Rome, up in that room, I heard him say "Do you want to see your husband?" She said "No, what the hell do I want to see him for." I heard that.

Q. Did you know -- A. Wait a minute. Monday morning when we were taken out to be brought to court Lieutenant Rome says to me, "You and your wife don't get along together," I didn't answer that. I says "We do", or something like that. I don't remember that.

Q. Do you know whether they asked her to go up there Tuesday or that she came because she wanted to see you? A. She didn't ask - well, I don't know that. I can't answer that.

Q. You don't know? A. No, not Tuesday, but I know the rest of the time she was dragged, dragged, dragged, day and night.

Q. When you say that they were dragging her back and forth, you don't know? You weren't there? A. I do know. I know that she was being brought back and forth. I got ears. I know what is going on.

Q. You don't know whether she asked to go up there, do you? A. I don't think that she wanted to go up there. I don't think nobody else wants to go over there.

Q. Do you know the reason that your children were brought over there is because when your wife came over to headquarters she wouldn't leave the children home?
A. She left them alone Sunday night.

Q. I am asking you about the times the children were there? Do you know the reason they were there is because your wife would not come over there without them?
A. Well, I couldn't answer that question.

Q. But you are talking about dragging the children over there, too. You don't know anything about that, do you?
A. I do know about that.

Q. Were you there when they were brought from the home? A. I can tell you how they operate.

Q. What's that? A. I can tell you how they operate, such as they operated.

Q. But you weren't there when this happened, were you? A. I was there. I couldn't say that I wasn't there. Where else would I be?

Q. You were down at the jail on Tuesday night? A. I was down the jail on Tuesday night and dragged out Wednesday morning.

Q. And you didn't get any medical treatment, no doctor, down there, that Tuesday, did you? A. That Tuesday?

Q. Yes. A. I didn't have no choice.

Q. Did you ask for a doctor? A. Did I ask for a doctor?

Q. Yes. A. I told the officer there, and he says "You want to see a doctor." You know, when I was telling him what's what, and he says "Well, you want to see a doctor." I says "I don't think I'm that bad but I can wait until morning." So when morning came along I was dragged out, actually pushed out, as they say.

Q. You didn't tell us that before, did you? A. I told you that I was pushed out.

Q. I mean about the doctor, when Mr. McDonough asked you questions. A. You see -

Q. No, just a minute. When Mr. McDonough just asked you questions ahead of me, did you speak of the doctor then, on Tuesday night?

MR. McDONOUGH: I object. The record will show that he did.

THE COURT: What is just as important is my recollection. He testified to it.

MR. McDONOUGH: Yes, Your Honor.

Q. And did he come there? A. Did he come there?

Q. Yes. A. I didn't see him then.

Q. Now, this State's Exhibit Z-1, look at that.

A. It is no good for me to look at it. I couldn't tell you what is on it.

Q. Look at your name, you know when you see your name signed, don't you? A. That's my name.

Q. That's your name, isn't it? A. Right.

Q. So you put your name on that paper, didn't you? A. Right.

Q. So I show you State's Exhibit for identification, Z, and look at the name at the bottom of that? A. That is initials, is that what you mean?

Q. No, look at that, the last page, is that your signature? A. There is a signature there.

Q. Isn't it yours? A. It looks something like mine but I couldn't swear it is mine. It perhaps is mine.

Q. Don't you know? A. I couldn't swear to it.

Q. You swore that this other one was. Is there any difference? A. It looks a little different to me.

Q. Did you sign something Monday? A. I did sign some papers Monday. What they was I couldn't tell you. Something about a confession, typing out.

Q. And was Lieutenant Rome and O'Brien there at the time on Monday? A. Yes, sir.

Q. And you say that looks like your signature, is that right? A. That is what I say.

Q. How many times between Saturday, when you were taken to police headquarters, and Wednesday night when you signed the confessions, did you see your wife? A. You mean from the time that I was locked up until the time that I signed the confession?

Q. Yes. A. Well, I recall that I seen her once, but not to talk to privately, or anything like that, if that is what you are referring to.

Q. But you saw her, didn't you? A. Yes, I saw her in a room there, like I says I did. And then I saw her in another room.

Q. Did you ask your wife to get you a lawyer?
A. I couldn't get to my wife to ask her such a thing.

Q. She was talking with you. You said here a lot of times she accused you of things. She said to you "Tell the truth and get it over with", and such things as that, didn't she? A. I didn't ask her to get a lawyer.

Q. You didn't ask her, did you? A. I didn't ask her. I didn't even think of it, to begin with.

Q. You didn't even think of it? A. No. How could you, with all this pressure? You don't even know what day it is half the time.

Q. Well, now, when you started to tell your story about the New Britain affair and some of the others on the confessions that Wednesday afternoon when Sergeant Paige was there Sergeant Murphy, Lieutenant Rome was not there at first, was he? A. No. I believe that Lieutenant Rome was down the other end, somewhere down there. I couldn't tell you what room, because I don't know.

Q. And when you started to make your confession about the guns and that sort of thing, with Sergeant Paige and Sergeant Murphy, they were in the room?
A. We wasn't talking about the guns at that time. We was playing the game at that time.

Q. You finally wound up the game by talking about guns, didn't you? A. At the end, yes.

Q. And that you would show them where they were? A. At the end, yes.

Q. That is where it started, wasn't it? A. What do you mean?

Q. When you started to confess? A. About the guns. I couldn't get nowheres. I didn't have no choice.

Q. But you did start to tell your story then, didn't you? A. About the guns?

Q. About everything? A. Well, I mean, during all the questions and all that and the pressure and all that sort of thing.

MR. McDONOUGH: I want these questions to be allowed to be answered.

THE COURT: I think that is true, and it is a fault that you were somewhat guilty of for the same reason. I don't think you realized he was still talking.

MR. BILL: The man keeps on going and going.

THE COURT: I think that he should be allowed to finish. Will you read the answer, Mr. Burke?

(Last answer read by reporter)

THE COURT: Had you finished your answer?

Go ahead, Mr. Bill.

Q. Sergeant Paige had always been good to you, hadn't he? A. Well, he treated me pretty fair.

Q. And Sergeant Murphy had? A. Well, I only saw the gentleman once.

Q. So the two men that were questioning you when you started to tell your story were two men that had been good to you, isn't that true? A. Well, they had.

MR. BILL: I wonder if we could suspend here, Your Honor?

THE COURT: All right. You may escort the accused from the courtroom.

(Accused escorted from courtroom).

MR. McDONOUGH: I have a number of witnesses, Your Honor, under subpoena, and I wonder if they could be instructed to be here so I won't have trouble with them.

THE COURT: How many?

MR. McDONOUGH: Four or five, Your Honor. Just the usual announcement, witnesses that are under subpoena.

THE COURT: Before we adjourn I want to notify all witnesses who are under subpoena to appear here that they will have to be here at ten o'clock tomorrow morning. Sheriff, you may adjourn court until tomorrow morning at ten o'clock.

(Court adjourned 4:56 p.m.)

THURSDAY - June 13, 1957 - 10:18 A.M.

THE COURT: May I have the jury and the alternates, Sheriff?

(Jury and alternates seated at 10:20 A.M.)

THE COURT: Good morning, ladies and gentlemen. I am still proceeding with the matter before me, and from all I can see - and counsel agree - it will occupy the rest of the day and tomorrow, so I am going to excuse you this morning until Tuesday at ten o'clock with the same instructions I have given you repeatedly and will continue to give: You will not talk about this case to anyone or allow anyone to talk to you about it. You will not read about it in the papers; if there is anything on the radio or television you will ignore it. I can't make any promises to you but I have

hopes. You will report back to your rooms next Tuesday morning at ten o'clock. As I say, there is no point in bringing you in tomorrow because it is obvious we will not be ready. I can't go any further than that. You are excused.

(Jury excused at 10:21 A.M.)

THE COURT: May I have the accused, please. Mr. McDonough, I take it Mr. Culombe will return to the stand? Mr. Bill, you hadn't finished your cross examination?

MR. BILL: I am going to now.

THE COURT: Then you are going to finish it right now?

MR. BILL: No further questions.

THE COURT: Then you don't want him on the stand?

MR. McDONOUGH: No.

May I have an opportunity to make this motion? I would like to make a motion at this time, if Your Honor please, in order to save the expenses and fees for subpoena, that it be ordered by the Court that the Sheriff of this County, who is the keeper of the County Jail, or his Deputy at the Jail - I understand Sheriff Potter is absent in Texas at a convention - produce in this Court the mittimus that the Jail received committing Culombe to the Jail on Tuesday night, February 26, and that he produce in this court the jail record of the manner and by what authority he was taken from the jail on Wednesday morning, February 27th and the Officers of the Jail who took him from the jail and turned him over to the State Police on that morning. That can be done and it should be done forthwith.

THE COURT: Any objection.

MR. BILL: No.

THE COURT: The court will so order.

MR. BURKE: And may the Court order the mittimus committing Taborsky to the County Jail?

THE COURT: Yes, that is included in the order. Bring in the accused, if you please.

(Accused present in court.)

MR. McDONOUGH: I am not going to call Culombe.

THE COURT: The record should show that you have no further cross examination and there is no rebuttal. Call your next witness.

MR. McDONOUGH: Steve Malley.

STEPHEN JAMES MALLEY, a witness on behalf of the accused Culombe, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Stephen James Malley.

Q. Your address? A. 27 Longdale Avenue, Bristol.

ASSISTANT CLERK: You may be seated.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Malley, on February 26, 1957 were you employed at the Hartford County Jail? A. Yes, I was.

Q. Were you there on duty on the night of that date?
A. Yes, I was.

Q. Did you see Arthur Culombe at the jail?
A. Yes, I did.

Q. On Tuesday night? A. I booked him in.

Q. I show you a slip of paper and ask you what it is?
A. It is a receipt for prisoner's property.

Q. Given to whom? A. Arthur Culombe.

Q. And that is the record of the jail? A. Yes.

Q. And that was given to him on Tuesday night, February 26th? A. Yes.

Q. Do you recall about what time he was brought into the jail? A. I guess it was around eight o'clock - I am not sure of what time it was.

MR. McDONOUGH: May this be marked for identification?

THE COURT: Yes, Culombe's Exhibit 5 for identiff-cation.

(Prisioner's property receipt marked Culombe's Exhibit 5 for identification.)

MR. McDONOUGH: This Exhibit is marked "Inmate's Property Receipt".

Q. Did you have a talk with Culombe when he was brought in to the jail that night? A. Yes, I talked to him like anyone that comes in. I told him to empty his pockets and I shook him down.

Q. By shaking him down, what do you mean?
A. Going through his pockets, turning out his pockets and socks and everything else.

Q. He talked to you? A. He did.

Q. What did he say to you? A. I don't remember just what he said.

Q. Well, you talked to me the other afternoon at the jail - Monday afternoon? A. Yes, I did.

Q. Didn't I ask you then about the conversation?
A. Yes.

Q. Did you tell me what he said to you?

MR. BILL: I object to that.

MR. McDONOUGH: Claim it.

MR. BILL: There is no reason for cross examination.

THE COURT: I took it it was to refresh his recollection.

MR. McDONOUGH: Yes.

THE COURT: I will allow it.

MR. BILL: It is the manner in which it is being done.

THE COURT: That doesn't show in the record. I take it was perhaps a little enthusiastic but I will allow it.

MR. McDONOUGH: I am always enthusiastic, Your Honor.

THE COURT: Will you answer the question now.

THE WITNESS: Mr. McDonough asked me if he told me he got beat up by the State Police, and I told him Culombe told me he was beat up by the State Police.

Q. He did tell you that the night he was brought in? A. Yes.

Q. What did he say to you? A. He says, "I was kicked around by the State Police up at the State Police barracks."

Q. What else? A. That is all I remember.

Q. Did he talk about a doctor? A. I asked him if he needed a doctor —

Q. And he said he would wait until the morning?

MR. BILL: I object to that.

MR. McDONOUGH: Withdrawn.

Q. But he told you what happened at State Police Headquarters? A. Yes.

Q. That he was beaten up?

MR. BILL: Wait a minute - kicked around.

THE COURT: I recall the evidence.

Q. Do you know whether or not any sedatives or pills were given him? A. No, sir, I don't.

MR. McDONOUGH: That is all.

THE COURT: Cross examine, Mr. Bill?

CROSS EXAMINATION BY MR. BILL:

Q. You are what - a guard there? A. Yes, sir.

Q. And do you have reports that you make of anything that - any incident that occurs that is out of the ordinary to the prisoners? A. Yes.

Q. What is that, a log book? A. Yes.

Q. Did you make any entry on this one? A. I don't know whether I did or not.

Q. He said he was kicked around? A. Yes, sir.

Q. He didn't show you any marks? A. No, sir, he didn't.

Q. You didn't see any? A. No, I didn't.

Q. He just used the expression "kicked around by the State Police" A. Yes.

MR. BILL: That is all.

REDIRECT EXAMINATION BY MR. McDONOUGH:

Q. Did he say anything about being kicked in the side by Lieutenant Ro[illegible] ? A. No, sir, he didn't.

Q. You say you didn't see any marks? A. I took off everything but his underwear and then I took him down to have a shower a night or so later.

Q. I am not asking you about a night or two later. That night he had his underwear on? A. Yes.

MR. McDONOUGH: All right.

MR. BILL: No questions.

THE COURT: Step down.

MR. McDONOUGH: I will excuse him.

(Witness excused.)

STEVE KOWALSKI, a witness on behalf of the accused Culombe, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Steve Kowalski.

Q. Your address? A. 37 Carlton Street, New Britain, Connecticut.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Kowalski, were you employed at the Hartford County Jail on the 26th, 27th and 28th of February, 1957?
A. Yes.

Q. Did you see Culombe at the County Jail?
A. Yes.

Q. When was the first time you saw him at the County Jail? A. I think it was around the latter part of February that they brought him in - between the 26th and 27th of February.

Q. Whether or not you gave Culombe any medicine or pills or anything? A. No, I didn't sir.

Q. To refresh your recollection, Mr. Kowalsky, didn't you on the night he was brought in, on the night of the 26th, in his cell, give him four aspirin tablets? A. Aspirins?

Q. No. A. I can't remember.

Q. Well, you say you didn't.

MR. BILL: Your Honor, this is his witness and he is cross examining him.

THE COURT: I am going to permit it.

Q. Will you say you did not give him any?
A. I can't remember.

Q. Culombe has testified, Mr. Kowalski, that you gave him four aspirin tablets? A. Well, I can't remember because I give aspirins to mostly everybody.

Q. In other words, you could have given them to him?
A. It is a possibility.

MR. McDONOUGH: That is all.

THE COURT: Any cross examination, Mr. Bill?

MR. BILL: No.

(Witness excused.)

MR. McDONOUGH: Mr. O'Toole?

PATRICK G. O'TOOLE, a witness on behalf of the accused Culombe, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Patrick G. O'Toole.

Q. Your address? A. Wethersfield.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. O'Toole, you are a Deputy Sheriff of Hartford County? A. Yes, sir.

Q. And you are also employed at the Hartford County Jail? A. Yes, sir.

Q. Were you employed there on the night of February 26th - Tuesday - or on February 27? A. Yes, sir.

Q. Did you see Arthur Culombe at the County Jail on the night of Tuesday, February 26th? A. I did.

Q. Did you in the course of your duties give him any pills in his cell? A. No, sir.

Q. Did you give him anything at all? A. No, sir, nothing.

Q. At anytime? A. No, sir, at no time.

MR. McDONOUGH: That is all.

THE COURT: Any cross examination?

MR. BILL: No.

THE COURT: You may step down.

(Witness excused.)

MR. McDONOUGH: It is important to the defense of Culombe, that I have a ten minute recess.

THE COURT: Any objection?

MR. BILL: No.

THE COURT: The accused may be escorted from the courtroom.

(The accused was escorted from the courtroom.)

MR. McDONOUGH: I will notify Your Honor.

THE COURT: Ten minute recess, Sheriff.

(Recess at 10:37 A.M.)

JUNE 13th, 10:55 A.M.

(Accused present)

(Jury and alternates not present)

THE COURT: Are you ready to proceed, Mr. McDonough?

MR. McDONOUGH: Yes, Your Honor. Mrs. Culombe.

DOROTHY CULOMBE, a witness called by the accused Culombe, having been sworn by Mr. Coburn testified as follows:

BY THE ASSISTANT CLERK:

Q. Your full name? A. Dorothy Culombe.

Q. Where do you live? A. 20 Coleman Drive, Rice Heights.

Q. In Hartford? A. Yes.

THE COURT: Sit down, Mrs. Culombe. I take it that this is the wife of the accused Arthur Culombe?

MR. McDONOUGH: Yes, Your Honor.

Q. Now, Mrs. Culombe, I have to tell you this, and I am just talking to you and I want you, if you don't understand me, to say so, because I want you to understand me. You had to come to court when you got the subpoena but you don't have to testify in this case if you don't want to. You have a right to testify if you want to, but you don't have to if you don't want to and you can say that you don't want to, and if you don't want to you don't have to. Do you understand that?

THE WITNESS: Yes.

THE COURT: Completely? Do you understand?

THE WITNESS: Yes, sir.

THE COURT: Don't say "yes" if you don't. You do understand that you may testify if you want to, but you don't have to if you don't want to, under our law? You understand that? A. Yes.

THE COURT: Do you want to testify?

THE WITNESS: Yes, sir.

THE COURT: You may proceed.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mrs. Culombe, you are the wife of Arthur Culombe, the defendant in this case? A. Yes.

Q. And when were you married to him?
A. In 1942.

Q. And you have two children born of the marriage?
A. Yes, sir.

Q. What are their names? A. Joanne and Sandra.

Q. Joanne and what? A. Joanne and Sandra.

Q. And the younger child is known as Sandy, isn't she? A. That's right.

Q. Joanne is how old? A. Thirteen.

Q. How old is Sandy? A. Five.

Q. Where do you live, Mrs. Culombe? A. 20 Coleman Drive.

Q. Hartford? A. That's right.

Q. And on February 23rd, 1957, you recall your husband being taken into custody by the State Police?
A. That's right.

Q. And you were living there at that time?
A. That's right.

Q. Now, on February 23rd, which was on a Saturday, did you go to the State Police barracks in Hartford?
A. No.

Q. When is the first time that you went to the State Police Barracks? A. Sunday night.

Q. Sunday night, February 24th? How did you happen to go there? A. Three of them came in.

Q. Three of who? A. Detectives. I don't know which ones they are.

Q. State police? A. Yes.

Q. Did you tell them that you wanted to go to the barracks? A. No, I didn't.

Q. It has been testified that you wanted to go to the barracks to see your husband. A. No, I didn't.

Q. That isn't so? A. No.

Q. Tell His Honor the situation when those three State Policemen came to your house? A. They came in, they asked me if I wanted to go down to see my husband. I said that I couldn't go because I didn't want to leave the children alone, I had nobody to stay with them. They talked me into it -

Q. What? A. They talked me into it and I left the five year old with my oldest girl, so I got down and I did not see my husband that night.

Q. You did not see your husband that night?
A. No.

Q. What happened at the State Police Barracks that night, that Sunday night? A I talked to Lieutenant Rome.

Q. Yes. A. And then they took me back into another room.

Q. And who was in the other room? A. And there was - three or four of them.

Q. What's that? A. There was two or three of them in there.

Q. How long did Lieutenant Rome talk to you?
A. About ten or fifteen minutes, maybe.

Q. Then they took you into another room with two or three other policemen? A. Yes.

Q. What happened in that room? A. One of them tried to get smart, he tried to give me the third degree.

Q. He tried to give you the third degree? What was the conversation? What did you say to that when they tried that? A. I just told them that they wouldn't get away with it.

Q. They wouldn't get away with it? A. Not with me they don't.

Q. Just what happened? A. I told them that I wanted to go home because my children were alone. I said if they didn't let me out I was going to walk out and walk home. They still kept me there.

Q. Then what happened? A. I said if they didn't let me out I'd scream the building down.

Q. Then what happened? A. They finally did let me go.

Q. How long were you kept at the barracks that night? A. I'd give it a good two hours.

Q. Did they bring you to police headquarters again?
A. Yes.

Q. How often have they brought you to State Police Headquarters while your husband was held there?
A. Close to two weeks.

Q. Close to two weeks? By that do you mean once every two weeks or once a day? A. No, every day.

Q. Every day they brought you there for two weeks? Did they bring you there - question withdrawn. There has been testimony about your being there on a Tuesday night?

A. Yes, I might have been. I don't remember days or places or times.

Q. But you put it this way, that you were brought there every day? A. Yes.

Q. Was there one night that you were there and Joanne and the little baby were there? A. That's right.

Q. Do you know whether or not that was on a Tuesday night? A. No, I don't recall.

Q. But you and Joanne and the little baby were there on one night? A. Yes.

Q. Tell His Honor just what happened that night. When they came after you whether or not you wanted to go.

A. I didn't want to go, no.

Q. Tell His Honor how it started, your going there?

A. You got me all confused now.

Q. Don't be confused, just take your time.

A. I don't know what day you are referring to.

Q. How many nights did they bring Sandy and Joanne there with you? A. About two nights. Sandy was always with me.

Q. Sandy was always with you? A. Yes.

Q. The baby? A. Yes.

Q. Do you remember the other night - that's withdrawn. Was there one night the police came to your house that Sandy was sick and you were afraid that she was going into convulsions? A. Yes, sir.

MR. BILL: I object to that, Your Honor. He is testifying.

MR. McDONOUGH: I was trying to refresh her recollection.

MR. BILL: I don't think that is fair.

MR. McDONOUGH: I will withdraw it and reframe it.

THE COURT: All right.

Q. Was there a night that you brought Sandy and Joanne with you? A. That's right.

Q. About that one night that you are now telling us, will you tell us about it in your own way, what they said when they came to your house? And what you said to them.

A. I can't recall what they said but I know that I didn't want to go.

Q. Why? A. I didn't see no sense in dragging me and the children down there. It didn't make no sense to me at all.

Q. Dragging you and the children down? A. No, I didn't.

Q. Did you object to going? A. Yes, I did.

Q. Besides not making sense to you did the baby's health have anything to do with it that night?

A. It could have been that night, I am not sure.

Q. What night was the baby's health in question?

A. I think that is was on a Wednesday.

Q. Do you remember the afternoon that Arthur came down, the afternoon that he signed the papers? A. Yes.

Q. To refresh your recollection, was it the night before he signed the papers that this happened? A. That the baby was sick?

Q. Yes. A. No.

Q. It wasn't that night -

MR. BILL: Now, Your Honor -

THE COURT: She said that it was Wednesday night.

Q. Tell us about that night, regardless of what night it was. A. Well, two of them, I don't know which ones, and Miss Murtha had came in. I told them that the baby was sick and that I just didn't want to go.

Q. Miss Murtha is a state policewoman? A. Yes, I know. But the baby was sick and I had nobody to leave her with and I didn't want to take her with me and I didn't want to leave her alone. They wanted me to leave her with my thirteen year old girl, a sick baby with a thirteen year old girl. I went down anyway to keep them off my neck.

Q. To keep them off your neck? A. We got in there. I did not see my husband at the time.

Q. You did not see your husband? A. No, they kept giving me the run around, saying that they were taking ballistic tests or something, and I did not see him. The baby was getting sicker all the time.

Q. In the barracks? A. In the barracks. I went to Miss Murtha and I said "The baby is sick. I want to go home." They still gave me the run around.

Q. They still gave you the run around? A. And I got mad and I really landed.

Q. You got mad and really landed? A. Yes, I did. They finally got me home.

Q. How long did they keep you there that night?
A. They kept us there two or three hours.

Q. Did you see your husband the next day?
A. I don't recall.

Q. Did you see him at all? A. I might have seen him the time I told him the baby was in the hospital.

Q. Where did you see him? A. Downstairs.

Q. Downstairs? Was that in the barracks, you mean? A. Yes.

Q. Now, at any time did they allow you to talk to your husband in the State Police Barracks outside of downstairs in the cell? A. No.

Q. There has been testimony here by the State Police that in the barracks, in the presence of policemen, that you said to your husband you would press the button in the electric chair. A. Yes, I did.

Q. Did you say that in the barracks? A. No.

Q. Where did you say that? A. At home.

Q. And that was in a conversation with your husband? A. Conversation between the two of us.

Q. If he committed those murders that you would press the button yourself? A. Yes, I did.

Q. And that was not in the presence of any police officer? A. No.

Q. They have testified that that happened in their presence. That did not happen in their presence? A. No.

Q. But did you tell them that you said that? A. Yes, I did.

Q. You told them that? A. Yes, I did.

Q. That was before he was arrested? A. That was before.

Q. When you were talking with him? A. Yes.

Q. Why did you say it? A. Well, I am thinking in terms of that fourteen months old baby left alone in the car. I have a five year old daughter of my own and if anything like that happened I'd be out after them, too.

Q. You were talking these murders over with your husband? A. Yes, I was.

Q. And what was it that you said? A. I said that if he had anything to do with them murders I would like to be there and press the button myself.

Q. What did he say to you? A. He didn't answer me. He didn't say a word.

Q. He didn't say a word? A. No.

Q. But as has been testified by the State Police, you never made any such statement in their presence? A. No. I had told them what I said to my husband, but I made no statement.

Q. The treatment that you testified to - I'll strike that word "treatment" out. What happened to you in the State Police Barracks and your being brought against your will to the barracks and being held against your will, as you testified, did that have any effect on you? A. Yes, I was a nervous wreck.

Q. You were a nervous wreck? A. I didn't know whether I was coming or going.

Q. Did you see your husband briefly for a moment downstairs one night in the barracks? A. Yes.

Q. And is that before he signed the papers? A. It must have been.

Q. Were you upset that night? A. Yes, I was.

Q. And were you so upset that you know your husband could have seen it? A. Yes.

Q. Were the babies, or a baby with you that night?
A. Yes, she was.

THE COURT: Cross examination. Mr. Bill.

MR. BILL: Yes.

CROSS EXAMINATION BY MR. BILL:

Q. When was it you talked to your husband about suspecting or telling him that you had this suspicion - the first time? A. That was just over the dinner table - reading the newspaper.

Q. Do you remember after what killing it was?
A. No, I don't.

Q. It was after a few of the killings in Hartford County? A. Yes.

Q. What was it you told him about being mixed up in a thing like this? A. I didn't know that. It was just a matter of conversation.

Q. You suspected him, did you not? A. No, I didn't.

Q. You didn't suspect him? A. No.

Q. As a matter of fact, you remember the North Haven killing, don't you? A. Yes, I do.

Q. You had a TV set that night? A. Yes, sir, that is right.

Q. And you were watching TV and it came over TV - an announcement of these killings? A. Yes.

Q. And right after that Taborsky and your husband came into the house, isn't that right? A. Yes.

Q. And you put it right up to them that you suspected they did these killings? A. I did not suspect - I just asked them where they had been, that is all I did.

Q. That is all you did? A. Yes.

Q. I show you three pages, Mrs. Culombe, typewritten, dated March 1, 1957 and ask you to look those over and see if you recognize them? A. Do I have to read them?

Q. Yo do anything you want so you will be able to tell us whether you recognize those pages.

MR. McDONOUGH: May I have that read - I didn't get it?

THE COURT: Yes, read it.

(The reporter read the last question and answer.)

A. Yes, I have.

Q. The answer is yes. That is a statement, is it not, that you made to the Police at Police Headquarters?
A. Yes, sir.

Q. That is your signature, isn't it? A. That is right.

Q. Now, about this North Haven matter I just questioned you about one night - I am reading to you.

MR. McDONOUGH: I object.

THE COURT: That hasn't been marked.

MR. BILL: I am asking if she said this. I will have it marked, but I think I can read it and ask if she made that statement.

THE COURT: This will be State's Exhibit AA for identification.

(Three sheets of typewritten statement marked State's Exhibit AA for identification.)

Q. Now, I am reading from this State's Exhibit AA for identification, Mrs. Culombe: "One night I was sitting watching TV -"

MR. McDONOUGH: Just a moment, I object.

THE COURT: Let him finish.

Q. "- with my thirteen year old daughter, Joanne, watching Channel 18 and the program was interrupted for a special bulletin and the bulletin was about another shooting in North Haven in a shoe store. Joe and Art, my husband, had gone out after supper that night and came back into the house about five or ten minutes after the bulletin. This was the first news I had heard of the North Haven murder and I had had the TV set on since about four P.M. that afternoon. When the two men came into the apartment I asked them where they had been and told them I wanted the truth about the bulletin I had just heard . . . ."

MR. McDONOUGH: I would like to be heard.

Q. "They told me the car had broken down and that they had to get a push or a wrecker or something like that . . .

MR. McDONOUGH: May I have an exception?

A. Yes.

MR. McDONOUGH: Just a moment. I will move to strike out the answer.

THE COURT: The answer may go out. Go ahead.

MR. McDONOUGH: I object to the State's Attorney questioning the witness on an exhibit that is only marked for identification. He is cross examining from something - an exhibit - not in evidence. Secondly, it is not in line with the direct examination, but the most obvious and damaging basis is the fact that it is not in evidence.

MR. BILL: Well, of course, I am testing her credibility. I can ask her if she made a statement on that date and I can read from it whether it is in evidence or not to test her

credibility, whether it is beforehand or after. That is what this is for. It is perfectly within the rules of evidence.

MR. McDONOUGH: He cannot examine her on something not in evidence. There is no statement in evidence, Your Honor. The State's Attorney says he is questioning her on a statement she made. There is no statement in evidence.

THE COURT: The point of your comment I understand, but he is asking her this question - do you recall this statement.

MR. McDONOUGH: No, Your Honor, he is reading from something marked for identification.

THE COURT: I know what you say, but his question is - I am reading from this statement and he finishes his question by saying - do you recall that statement. He is asking her whether or not she made that statement which he says he is reading from as AA for identification. I will allow it.

MR. McDONOUGH: May I have an exception?

THE COURT: You may. Do you remember it?

A. Yes.

Q. Will you answer the question?

THE WITNESS: I just did - yes.

THE COURT: Yes is the answer.

Q. Why did you ask your husband to tell you the truth about this North Haven shooting? A. I didn't ask him about that - I just asked him where he was - I didn't ask him nothing about this.

Q. But you just said you did ask him that question.
A. I did not.

Q. But in this statement you agreed to you said, "I asked them where they had been and said you wanted the truth." What did you want the truth about? A. I wanted the truth about where they were.

Q. That you had just heard about this killing? A. Yes.

Q. You were suspicious, weren't you? A. No, sir.

Q. Why did you ask them where they were and wanted the truth? A. I have a right to ask my husband where he was.

Q. Is that the way you want to leave it? A. Yes.

Q. You told your husband at the State Police barracks that he had better tell the truth because they had enough on him, didn't you A. Yes, I did.

Q. Why did you tell him that? A. Because that is what they were telling him at the State Police.

Q. And they told you what they had? A. No, sir, they didn't.

Q. You didn't know? A. No.

Q. You knew what they wanted you for was about these guns? A. They mentioned no guns to me.

Q. Didn't they ask you about guns? A. They asked about it but I knew nothing about them.

Q. That is what the talk was about? A. There wasn't too much talk about it.

Q. There was a lot of talk about Taborsky and how many times he had been to your house? A. Yes.

Q. And you told them you never saw him there when they first talked to you? A. Yes.

Q. And that wasn't the truth? A. No, it was not.

Q. You later testified and told them about every weekend he had been there? A. Yes.

Q. And that was the truth that you had seen him there every weekend? A. Yes.

Q. That was the time you appeared after that?
A. Yes.

Q. Didn't you get suspicious then? A. No.

Q. Didn't you tell your husband you didn't mind holdups but murder was something else? A. As a matter of conversation, yes, between the two of us, yes.

Q. When was that between the two of you that you said that? A. I don't remember.

Q. During the investigation, wasn't it? A. No, it wasn't.

Q. It was during these reports of these killings?
A. Yes.

Q. And you got concerned about those, didn't you?
A. Well, who wouldn't?

Q. Why should you get concerned about it? A. I have a five year old girl at home.

Q. I mean about your husband and that he might be mixed up in them? A. I didn't think that.

Q. Isn't that why you questioned him on them?
A. It was a matter of conversation sitting there over supper.

Q. Who are you talking about when you said you didn't mind holdups but murder was another thing?

A. It was just a matter of conversation - just sitting and talking over supper.

Q. Isn't it so that you warned him? A No, I wasn't warning anybody.

Q. You didn't suspect him at all? A. No, I did not.

Q. You didn't want Taborsky around there, did you?
A. Well, I didn't like the idea too much.

Q. And he was up there about every weekend?
A. Yes.

Q. He stayed with you that Friday night of the ice-storm, is that so? A. I don't remember if he did or not that Friday night.

Q. Let me see if I can refresh your recollection from State's Exhibit AA for identification.

MR. McDONOUGH: I object again. It is a flagrant violation of the rules on examining from something that is not in evidence. The State's Attorney admits that.

THE COURT: There is nothing for me to rule on now except your objection and I overrule it.

MR. McDONOUGH: Let us be frank about this matter, Your Honor. I have never believed that things don't get back to the jury. I have been practicing too long and I know that these matters get into the papers and get back to the jury.

THE COURT: I can't help that, We have rules of law to go by.

MR. McDONOUGH: I have the right to object to the State's Attorney reading from something that is not in evidence. May it be read so that I will know what I am talking about?

(The reporter read the last question.)

MR. McDONOUGH: The reason I am objecting at

this time, if the Court please, is because he states what he is looking at is in evidence. He is allowed to tell her.

THE COURT: Overrule the objection.

MR. McDONOUGH: Exception.

THE COURT: An exception is noted.

Q. Mrs. Culombe, reading from State's Exhibit AA for identification: " On the weekend of the bad ice storm in Hartford when the street lights were out on Flatbush Avenue, Joe Taborsky came over to our house on Friday night at about eight P.M. or after. I asked him what he was doing out driving on a night like that. Joe told me that he liked driving in that kind of weather. He told me that he had been over at his mother's house that night. Joe stayed overnight that night, sleeping on the couch in the living room." Do you remember that?

MR. BURKE: Pardon me, I object to this question. I know Your Honor has ruled that it has no standing in this matter, but I believe in this case it does. Mr. Bill undoubtedly will question Taborsky and ask whether he heard her testify to this, and so on, and will attempt one way or the other to tie it in and thereby it will be used against him, and I want to object. I don't think it is within the scope of the direct examination and goes far beyond the ruling of the Court.

THE COURT: I will overrule the Objection. Will you answer the question?

THE WITNESS: I still don't recall whether he said he stayed overnight or not. If they have that in that statement, I still say the same thing. I don't recall if he stayed overnight that night. If he did, I don't recall it.

Q. Didn't you from the time your husband was picked up and taken to Police Headquarters say you didn't want

to see him during that time? A. I was very upset that night.

Q. What was that? A. I was very upset and nervous that night.

Q. I am not asking you that. I mean over that time - Saturday to Sunday? A. They wouldn't let me see him.

Q. You wanted to see him didn't you? A. Well, I would have seen him if they let me.

Q. And that is the reason you --

MR. McDONOUGH: She should be allowed to finish her answer.

THE COURT: Between all three of you, or among all three of you, to be grammatical, it is hard for all of us to follow. Would you read what you have, Mr. MacGlashan?

(The reporter read the last question and answer.)

Q. That is the reason they took you over to Headquarters on Sunday - and other times - they took you over there to see your husband? A. To see him, but I never got to see him.

Q. But that is the reason they took you over there? A. Yes.

Q. I think you testified to Mr. McDonough that they forced you to go over there and dragged you over there? A. I went to get them off my neck.

Q. But you say they dragged you and forced you to go over there? A. No, they didn't force me.

MR. McDONOUGH: I didn't get the question and answer.

THE COURT: I will try to instruct the witness - and Mr. Bill shouldn't need the instruction. Wait until he fin-

ishes his question, and if you don't understand it, say so. Will you read what you have, Mr. MacGlashan?

(The reporter read the question and answer.)

THE COURT: Go ahead.

Q. You said you were over there - was it about every day - for two weeks? That isn't so, is it? A. It certainly is.

MR. McDONOUGH: The State's Attorney is telling her something that isn't so. I object to the form of the question.

THE COURT: Overruled.

MR. McDONOUGH: Exception.

THE COURT: Read the question, Mr. MacGlashan.

(The reporter read the question and answer.)

Q. You mean from Saturday night, February 23 when your husband was first taken over to the Police Headquarters - the State Police barracks - for two solid weeks you were over at State Police barracks? A. Yes.

Q. And you were over there even after he confessed? A. Yes, I was, but I didn't know he confessed.

Q. Where did you hear it?

THE COURT: I want to hear it. There was one remark there when she was interrupted.

(The reporter read the answer.)

THE COURT: Go ahead.

Q. When did you learn that? A. Frankly, I didn't.

Q. You say you didn't learn it? A. No.

Q. You never learned it? A. No.

Q. You don't know it now? A. Now I know it, yes.

Q. When did you first learn it? A. When this trial started.

Q. You don't read? A. Certainly I read.

Q. The reason that I ask you is that your husband says he doesn't read. A. That has nothing to do with me.

Q. That is why I am asking you if you do. All right. You say you do read the newspapers? A. Yes, I do.

Q. And didn't you hear it was reported he confessed?
A. Yes.

Q. Did you read it? A. Certainly I read it.

Q. Then you knew it then, didn't you? A. Yes, but I didn't know it at the time.

Q. Well, you got the paper at the time he confessed or the next day, didn't you? A. I am not sure I did. I didn't start the paper stories until they started the jury trial.

Q. You mean that he confessed on a certain night and you didn't learn it that night? A. Yes.

Q. What did you mean when I asked you when you first learned and said when the trial started? A. That is right, when the jury was started - they started picking the jury.

Q. That is the first time you knew of a confession?
A. Yes.

Q. Didn't you read it in the papers? A. I wasn't getting the paper at the time.

Q. Didn't your neighbors talk to you about it?
A. No.

Q. You say that you wanted to see your husband while he was over at State Police Headquarters? A. Yes.

Q. How many times have you been down to the Hartford County Jail to see him? A. Once.

Q. While he has been there, once, and you know if you wanted to you could have gone down there many times on visiting days? A. I know that.

Q. Why haven't you done that? A. Because I was so nervous and upset at the time I felt that I didn't want to see him.

Q. You washed your hands of him when he confessed, didn't you? A. No, not exactly.

Q. Not exactly? A. I was nervous and upset and I just felt that I didn't want to see him at the time.

Q. You wanted to see him for some time there, and all of a sudden you didn't want to see him. Wasn't that because he confessed? A. No.

Q. What was it that you changed your mind and didn't want to see him? A. Because they kept bothering me all the time and I was nervous and upset.

Q. And you want to let that be your answer?
A. I just wanted to be left alone.

Q. As a matter of fact, those times that you went over to State Police Headquarters, you wouldn't go over there unless you took the children, would you? You wouldn't leave them alone? A. I wouldn't leave them alone.

Q. And that's why they went over there, isn't it?
A. Pardon?

Q. That's why they were there at police headquarters, to be with you? A. To be with me, yes.

Q. Now, all the time that you were there at State Police Headquarters Miss Murtha was there, the State policewoman, wasn't she? A. That's right.

Q. And you found her to be a nice lady, didn't you? A. She was very nice.

Q. She was very nice to you? A. Yes, she was.

Q. All the time? A. Yes.

Q. And she stayed right with you all the time, didn't she? A. Yes, she did.

Q. And as a matter of fact when you told about your little baby Sandy being sick, it turned out that she had the mumps, didn't it? A. Yes.

Q. And didn't Miss Murtha help you get her over to the hospital? A. She told me when she left me that if I needed help, to call back.

Q. And you called her, didn't you? A. Yes, I did.

Q. In other words, the little girl, when she became ill, Miss Murtha had taken you home, hadn't she? A. That's right.

Q. And didn't Miss Murtha leave word with you that even though that might be in the evening she would give you her personal telephone number and she would come down and help you to get the baby into the hospital if you wanted to go to the hospital? A. That's right.

Q. That's right, isn't it? A. Yes.

Q. And as a matter of fact she did come down there and she did get the baby and take her over to the hospital, the Hartford Hospital, is that right? A. That's right.

Q. And you couldn't get in there? A. No.

Q. And you went over to McCook Hospital?
A. That's right.

Q. She was pretty nice to you, wasn't she?
A. Yes, she was.

Q. And you knew that she had been a nurse, a registered nurse before she became a state policewoman, didn't you? A. Yes.

Q. Well, you were all upset because your husband had gotten you into this mess, isn't that so? A. Yes.

Q. And he told you that he would like to confess, but if a man went along on a killing, although he didn't do it, he'd be just as guilty as the other fellow? He told you that, didn't he? A. I don't recall him saying that.

Q. You don't recall him saying that? But he told you that it was a hard decision to make whether to confess or not, didn't he? A. Yes.

Q. And you were urging him to tell the truth?
A. No, I wasn't.

Q. Didn't you ever tell him to tell the truth?
A. Yes, I did. Once, yes.

Q. And you wanted to have him? A. Pardon?

Q. You wanted to have him tell the truth, didn't you?
A. Yes.

Q. And there has been some testimony here that you were taken into the room where Taborsky was?
A. That's right.

Q. And you threw your pocketbook down and charged at him. Did you do that? A. Yes, I did.

Q. What did you do that for?

MR. McDONOUGH: I object, Your Honor.

MR. BURKE: I object.

THE COURT: I will sustain the objection and strike out the answers. It is irrelevant. I can't tell the jury to disregard it but I will disregard it.

Q. The reason that you were a nervous wreck and didn't know whether you were coming or going was because your husband was being charged with murder, that is it, wasn't it? A. Yes.

MR. BILL: That's all.

THE COURT: Anything further, Mr. McDONOUGH?

MR. McDONOUGH: May I see that exhibit, Mr. Bill?

THE COURT: And that Exhibit is AA, for the record, is it not?

MR. McDONOUGH: Yes, Your Honor.

THE COURT: For identification.

MR. McDONOUGH: May I look at it for a moment, Your Honor?

THE COURT: Surely.

REDIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mrs. Culombe, these three pieces of paper marked State's Exhibit AA, for identification, that Mr. Bill showed to you, that is your signature on there, isn't it? A. Yes.

Q. And do you notice that Miss Murtha is on there as a witness? A. She didn't put that on until after I signed it.

Q. Yes, but that is the lady that Mr. Bill has emphasized is such a good friend of yours?

MR. BILL: Just a minute. I think the witness emphasized it.

THE COURT: I will sustain the objection anyway.

Q. That is the lady that Mr. Bill has asked you whether or not she was very nice to you, isn't it? A. Yes.

Q. Did you know that that lady is a police officer and was doing that not as a friend but as a police officer?

MR. BILL: Objection.

A. Yes, I did.

Q. You did know? A. Certainly.

THE COURT: I will sustain the objection. The answer may go out.

Q. Now, this was signed on March 1st, Mrs. Culombe, wasn't it? It is dated March 1st, at 3:45 p.m. Now, you talked to me shortly after I was appointed by the Court as your husband's lawyer, didn't you? A. That's right.

Q. At your home? A. That's right.

Q. Is that the only time that you talked to me up until yesterday in this courtroom? A. That's right.

Q. Now, I talked to you the Saturday after your husband was arrested and formally charged with the murder, and - A. On a Sunday.

Q. That's right. I was at your house before that but you weren't at home.

Q. Was this statement signed by you after you had talked to me? A. Yes, I believe that it was.

Q. Do you recall - question withdrawn. Who asked you to sign this statement? A. I think that is was Officer Moran.

Q. Officer Moran? Did he know that your husband had an attorney at the time that he asked you to sign this?
A. No, I don't know.

MR. BILL: Objection, Your Honor.

THE COURT: I am going to let it stand. She said "No, I don't know."

Q. It was after I became your husband's attorney that the State policeman Moran had you sign this statement?

MR. BILL: Objection, Your Honor. There hasn't been testimony as to when he did become his attorney.

THE COURT: I will sustain it.

MR. McDONOUGH: I think that it is a matter of record.

MR. BILL: You weren't appointed until later in the week.

MR. McDONOUGH: I was appointed on a Friday. The witness has testified that she signed this after I was appointed.

THE COURT: That's the evidence.

Q. Did you know, or did you think the purpose of the police in treating you, or their treating you, was out of friendship, or you try to get your husband to talk?

A. I didn't like it. I knew it was their job.

Q. You knew it was their job but you didn't like it? Why didn't you like it? A. Who would like to be dragged down there every day?

Q. You were dragged down? A. I wasn't dragged. I am using the expression.

Q. You mean that you were brought down? A. Yes.

Q. Against your will? A. Yes.

Q. Mr. Bill questioned you about this statement and he read parts of it to you, and you said in answer to one

of the questions in regard to this statement, "If they have that statement down I told them the same thing I am telling you. They put that down." Do you mean by that you - what you told them is what you told in court, isn't that so?

A. I don't quite follow you.

THE COURT: The Court followed it. That was her testimony.

Q. Did you read this statement before you signed it? A. Yes.

Q. Are these words your words or are they some police officer's words? A. They are mine.

Q. They are your words? Now, you talked to your husband at the county jail, didn't you? A. Yes.

Q. And you were brought there, oh, a matter of a month ago after he had been put to plea and charged with murder? A. That's right.

Q. And you were brought there by a state police officer? Miss Murtha, weren't you? A. Yes.

Q. Were you allowed to talk to your husband alone or did she sit in the room with you while you were talking to him? A. She sat with me.

Q. She sat with you all during the conversation?

A. That's right.

Q. Now, you were asked about when you knew about the confessions, and Mr. Bill asked you whether or not you didn't talk to the neighbors about finding out about the confession. Did you mingle with your neighbors after this broke in the papers? A. No, I did not.

Q. You stayed by yourself? A. That's right.

Q. And as you told the State's Attorney and the

Court, you have been very much upset over this. haven't you? A. Yes, I have.

Q. And you were upset by the fact -

MR. BILL: Objection Your Honor. He is cross-examining and leading.

MR. McDONOUGH: I will withdraw it. We won't argue about it.

Q. Were you upset by the constant questioning of the police?

MR. BILL: Objection.

MR. McDONOUGH: I think that she has answered already.

THE COURT: She has, Mr. McDonough.

MR. McDONOUGH: That's all.

THE COURT: Now, Mr. McDonough this lady is here because you requested the Court to issue a capias, and the Court feels that she has complied with all of its orders.

MR. McDONOUGH: I think so.

THE COURT: And she is now discharged as far as the Court is concerned from that capias.

MR. McDONOUGH: And as far as Mr. Culombe is concerned.

THE COURT: As far as the Court is concerned.

MR. McDONOUGH: Yes, from capias.

THE COURT: You may step down.

MR. McDONOUGH: She is just under subpoena and the subpoena still stands. May I state this, Mr. Burke told me that he wants Mrs. Culombe.

THE COURT: I think that Mr. Burke will have to stand on whatever his rights are. As far as the Court is concerned, it issued a capias at your request because of the refusal of the lady to come. She has now complied with the Court's order and the capias is dissolved.

MR. McDONOUGH: And I am satisfied.

THE COURT: Thank you, Mr. McDonough. And the Court is, too. I am going to take a ten minute recess, and when I say ten minutes, Sheriff, this time I mean ten minutes. I want to get back on regular schedule as nearly as I can. Escort the accused from the courtroom.

(Accused escorted from courtroom)

THE COURT: Ten minutes recess, Sheriff.

(Recess at 11:45 A.M.)

AFTER RECESS - 12:08 P.M.

THE COURT: All right, bring up the accused, Sheriff.

The record should show, Mr. McDonough, that you have finished except for the reception of this mittimus and two other short witnesses, is that correct?

MR. McDONOUGH: Yes, Your Honor.

THE COURT: All right.

(Accused present in the courtroom.)

MR. BILL: May it please the Court, I would like to have marked as an exhibit for identification the proceedings in the Superior Court here in case number 21,654, State versus Arthur Culombe, Superior Court, County of Hartford, February 28, 1957 before Honorable Abraham S. Bordon, Judge. That was a hearing that transpired in connection with the Culombe case on that date.

THE COURT: Is this marked as a full exhibit or BB for identification?

MR. McDONOUGH: I understood we were keeping the evidence in for identification.

THE COURT: Double B for identification.

(Court proceedings in re: Culombe 2-28-57 marked State's Exhibit BB for identification.)

MR. BILL: I would also like to present as an exhibit for identification the proceedings before Judge Bordon in case number 21,655, State versus Joseph L. Taborsky, held in the Superior Court, County of Hartford, February 28, 1957, and asked that it be marked.

THE COURT: It may be marked CC for identification.

(Court proceedings in re: Taborsky, 2-28-57 marked State's Exhibit CC for identification.)

MR. BILL: Lieutenant Rome, please.

SAMUEL ROME, previously sworn, recalled as a witness on behalf of the State.

DIRECT EXAMINATION BY MR. BILL:

Q. Lieutenant, you were here and appeared before the jury in this case and testified as to your part in the investigation of both Culombe and Taborsky, bringing it down, I think, to Wednesday. We have just developed the matter in the case of Culombe. Now, taking up the matter of Joseph Taborsky, I think you testified that he was sent to the Hartford County Jail on Tuesday night, is that correct? A. That's correct.

Q. And that was February 26th? A. 26th, is right.

Q. Now, whether or not you saw Taborsky the next

day, Wednesday, the 27th? Was he brought to Police Headquarters? A. I don't believe he was.

Q. The 27th - Wednesday the 27th? A. No, sir, I don't believe he was.

Q. All right. Now, did he remain in jail during that day as far as you know - all day Wednesday? A. As far as I know, yes, sir.

Q. And whether or not you saw him on Thursday the 28th? A. Yes, sir, I did.

Q. And under what circumstances? A. I went to the jail.

Q. When was this? A. Early in the morning - somewhere around nine o'clock.

Q. Accompanied by anybody? A. County Detective Eddy Matus and another officer.

Q. You don't remember his name? A. Not at this moment.

Q. And what happened? A. We took Joseph Taborsky from the County jail. We stopped in front of the Hartford Courant newspaper and showed it to Taborsky and we went on from there to State Police Headquarters.

Q. When did you get to State Police Headquarters - or when you got there where did you go? A. I don't know where I immediately went, but eventually I took Joseph Taborsky to the interrogation room on the third floor in our Detective Division.

Q. And how long were you there? A. Probably better than half an hour.

Q. And what took place there? Who was there?
A. County Detective Eddy Matus.

Q. And what took place? A. I had Culombe brought into the room also.

Q. And what happened? A. I asked Arthur Culombe to tell me what he had - in the presence of Joseph Taborsky - what he had told us the day before.

Q. And what did Culombe do? A. He told us he was involved in these several incidents.

Q. He said to you? A. He told me in the presence of Taborsky and County Detective Eddy Matus. I am of the opinion that Detective O'Brien was there too.

Q. Go ahead. A. And he had told us that it was Joseph - that he was with Joseph Taborsky when they drove to New Britain looking for a place to holdup.

MR. BURKE: I object to this.

THE COURT: What do you object to?

MR. BURKE: As I understand it, it is not admissible. Taborsky was under arrest at the time, and the only purpose it would have been admissible, if at all, would be to show the conduct or the action of Taborsky at the time the statement was made.

THE COURT: I will overrule the objection.

MR. BURKE: I have some cases, I thought -

THE COURT: If you have a case you want me to read I will do it.

MR. BURKE: This is the case of State against Wakefield, 88 Conn., page 164, 170. "Statements made by one of two persons accused of crime respecting the partake in its commission by the other, are mere hearsay and inadmissible in evidence against the latter unless uttered in his presence and hearing, and even then are not evidence of the truth of the facts stated, but are only receivable for the

purpose of showing that his conduct or demeanor, in the face of such statements, was inconsistent with the claims of innocence made by him on his trial."

MR. BILL: I think the leading case is State versus Ferrigno, and as I remember that case, it all comes up on the question of when a man is in custody and something is said to him and he remains silent. Then it is not admissible because his silence cannot be used against him, because under the Constitution he has a right not to speak; and I am not introducing this for that purpose - to show that Taborsky remained silent, and that is the whole theory of the Ferrigno case - that his silence should not be used against him, and I am not claiming that. The testimony will bear it out. I was just putting it in to show the sequence of what happened and I am not claiming that any thing resulting from this as far as Taborsky was concerned was in anyway damaging to him.

THE COURT: Of course, this is a hearing to determine whether or not, I suppose, a confession, which I understand will be offered, was voluntary or involuntary.

I will overrule the objection and you may have an exception.

Would you read the answer as far as it went?

(The reporter read the answer.)

THE COURT: Go ahead, Lieutenant.

A. And that Culombe was driving a 1949 black Oldsmobile. The roads were slippery and that they had passed a gasoline station on Stanley Street and Taborsky told him to turn around and drive into that station. They did drive in and Culombe ordered some gasoline and paid for it and used a two dollar bill, and Taborsky went inside the station, and that Culombe remained outside and Taborsky met the attendant when he was going in, held up

the attendant, forced him to go into a room, and he heard a shot, and Taborsky started to search this gasoline station. Culombe was still outside when a car drove in, he thought, to get some gas and that -

MR. BURKE: May I object again. I can't see how this is relevant as to whether or not this confession, so-called, of Taborsky is voluntary.

THE COURT: You may object. Is that the reason for your objection?

MR. BURKE: Yes.

THE COURT: I will overrule the objection.

MR. BURKE: Exception, Your Honor.

THE COURT: Yes. Go right ahead.

THE WITNESS: And that Taborsky came out of this station, told Culombe he was crazy for talking or trying to service this car and Taborsky ordered this man into the toilet in this gasoline station, where he shot him. He says they then left and went to Hartford in Culombe's car.

Q. Did that complete the telling of the New Britain incident? A. Pretty much so, yes, sir, at that time.

Q. Now, that same morning you are describing now, whether or not there were other incidents that were told by Culombe to Taborsky? A. Yes, sir.

MR. BURKE: That is objected to as irrelevant. It affects the voluntariness of the confession.

MR. BILL: I understand the question came up of what was done at the conferences and what took place, and I am doing this only to cover the ground as best I can and cover what took place there, and presumably one statement would be different from the other. It might have a bearing on how long they were there. It has no significance against Taborsky.

other than the element of what was done, and I understand that is what we are interested in in this hearing.

THE COURT: For that limited purpose I will admit it.

MR. BURKE: May I have an exception?

THE COURT: You may have, Mr. Burke.

Q. When these statements were all over did Taborsky respond in anyway? A. Yes, sir, after I asked Mr. Culombe whether or not he had given us the statement voluntarily without threat, promise or force of any kind, which Culombe said he did, Taborsky says, "I don't know what he is talking about."

Q. Did that complete that conference? A. Yes, sir.

Q. And what happened as far as Taborsky was concerned?

MR. McDONOUGH: Just a moment. I understand, Your Honor, that none of this testimony is being used against Culombe - that Culombe has been finished?

THE COURT: That is right.

MR. BILL: That is right.

THE COURT: Read the last question and answer, if there was one, Mr. MacGlashan.

(The reporter read the last question.)

A. Taborsky was - I think he was taken down to the barracks.

Q. That is, you were at Headquarters? A. Yes, sir, we were at Headquarters.

Q. And you say the barracks - is that in the same building? A. Yes, sir, where our cell block is.

Q. And later did you see Taborsky? A. Yes, sir.

Q. And under what circumstances? A. I was ordered to have him here in court.

Q. In the Superior Court? A. In the Superior Court.

Q. In connection with what? A. With the murder case, and was given a bench warrant to serve on him.

Q. That is as far as Taborsky was concerned?
A. Yes, I arrested him with the bench warrant and had him here, in court.

Q. That was a bench warrant issued - the one in this case, is that correct? A. Yes, sir.

MR. BILL: I understand Your Honor can take judicial notice of the file in this case?

THE COURT: I will do it.

MR. BILL: And also if it appears under the heading of another case, I assume your Honor would have the right to take it -

THE COURT: I understand, that is the authority if it is called to my attention.

Q. Now then, did you appear here in Superior Court?
A. I did.

Q. And you were a witness here, were you not?
A. Yes, sir.

Q. And both Culombe and Taborsky were presented before His Honor, Judge Bordon? A. Yes, sir.

Q. And that was Thursday morning, February 28th?
A. Yes, sir.

Q. Now, I ask you to look at State's Exhibit CC for identification, which represents the court proceedings over

here that morning, and ask you to look that over and see if you remember what took place.

MR. BURKE: If Your Honor please, do I understand the witness has no independent recollection of what took place?

THE COURT: I haven't any idea, Mr. Burke.

MR. BURKE: I will object to it as refreshing his recollection until it is ascertained.

Q. What took place over here, Lieutenant?

MR. BURKE: I object to this, Your Honor. It violates the best evidence rule. The best evidence of what took place here is the proceedings themselves.

MR. BILL: I will stand on the proceedings if that is the way you want it.

Q. As a result of the proceedings over here, was Taborsky delivered to you under an order of the Court? A. Yes, he was.

Q. And do you remember substantially what that order was? A. It was an order to the Sheriff to make available Joseph Taborsky to Commissioner John Kelly, the State Police Commissioner, for further investigation in these cases.

Q. And to return him to the jail at any time that he wanted to, do you remember that? A. Yes, sir.

Q. Now, what did you do in connection with Taborsky as a result of the termination of these preceedings here in court? A. We took him to the barracks where he was fed.

Q. What happened then? A. He was later that afternoon returned to the Hartford County Jail.

Q. And that would be Thursday, February 28th? A. Yes, sir.

Q. In the afternoon, when we went down to the Hartford County Jail, is that correct? A. That is, yes, sir.

Q. Now, when is the next time that you saw Joseph Taborsky, do you remember? A. The following day about five p.m. or thereabouts.

Q. To your recollection was Joseph Taborsky brought over to headquarters again from the time that he was sent down to the jail or committed to the jail on Thursday afternoon until Friday at the time that you have stated? A. No, sir, he was not.

Q. At least you didn't see him? A. That's right.

Q. Now, prior to seeing Joseph Taborsky on Friday afternoon, as you stated, did you talk to somebody on the telephone? A. Yes, sir.

Q. I don't want the conversation, but did you talk to somebody? A. Yes, sir.

Q. And with whom did you talk? A. Mrs. Joseph Taborsky, the mother of the accused.

Q. And did you call her or did she call you?

MR. BURKE: I am going to object to this. It is all leading, Your Honor.

THE COURT: I will overrule it.

MR. BURKE: I have an exception?

THE COURT: Certainly.

A. She had called me.

Q. Around what time, do you know? A. I don't know the time. I am of the opinion that it was the previous day.

Q. Oh, this was the previous day? A. Yes, sir.

Q. You think that it was Thursday? A. I am of that opinion.

Q. Now, did ultimately Mrs. Taborsky, Joseph Taborsky's mother, come to State Police Headquarters at some time? A. Yes, sir.

Q. Subsequent to this telephone call? A. Yes, sir.

Q. And when was that? A. About 5:30 or 6:00 p.m. on Friday, March 1st.

Q. And under what circumstances did she come? What was her transportation, do you know? A. State police.

Q. And did you talk to Mrs. Taborsky on that Friday afternoon? A. I did.

Q. And how long did you talk with her? A. Probably fifteen minutes to a half hour.

Q. And after the conference with Mrs. Taborsky whether or not you saw Joseph Taborsky? A. Yes. Mrs. Taborsky and I then went into the interrogation room where Joseph Taborsky was with Officer Robert Riemer.

Q. And when you got in there what took place Lieutenant? A. Mrs. Taborsky talked to Joseph Taborsky.

Q. In the presence of you and Officer Riemer?

A. Yes, sir. And she told him that she was of the opinion that he was involved in these crimes, and to tell the police the truth.

Q. And what else was said, do you remember? Did that take some time? A. Yes, there was quite a few minutes elapsed, and both Joseph and his mother cried. I talked with him -

Q. What did you say? A. I asked Joseph to tell the truth and explain his version of these killings, and his mother talked to him and finally he said to his mother, "I am involved in these things."

Q. And as soon as he said that, what happened? First off, was there any further questioning by his mother as to what he meant by being involved? A. Yes. She talked with him almost continuously and tried to prompt him and help him get it out, to start confessing.

Q. Were the names of the various victims discussed during this interview? A. Yes, sir.

MR. BURKE: Objection, that is a leading question.

THE COURT: Well, that doesn't necessarily make it inadmissible. I will overrule the objection.

MR. BURKE: May I have an exception?

THE COURT: Surely.

A. The names were mentioned, yes, sir.

Q. Now, after Taborsky said that he was involved, or whatever word he used - I don't want to misquote you - what did he say first? A. "I am involved in these things," as near as I can remember.

Q. Was there a further discussion in connection with the various affairs. A. Yes. With prompting by both his mother and myself Joseph Taborsky enumerated the number of the killings in which he said that he was involved.

Q. Now, did there come a time when a statement was made? A. Yes, sir.

Q. In connection with all these affairs? A. Separate statements were made.

Q. Separate statements? A. Yes, sir.

Q. And who took those down? A. Detective Vincent O'Brien.

Q. And when was that done in connection with or in relation to this conference that you had with Mrs. Taborsky? Did she remain there? A. No, sir.

Q. Let's get the time, then, on this. When did Mrs. Taborsky leave? Insofar as the discussion was concerned? A. Almost immediately after he had enumerated these killings.

Q. She went then, is that it? A. I asked her to leave that room and I requested Detective O'Brien to come in and take shorthand notes, Captain Schwartz, Sergeant Paige.

Q. All right. Now, in what form were these statements taken? In narrative form or question and answer form? A. Question and answer.

Q. And who did the questioning? A. I did.

Q. And was the New Britain affair separated from all the others, in a separate document? A. Yes, sir.

Q. I show you those eight pages, typewritten, and ask you if you recognize those? A. Yes, sir.

Q. Did you look them all over? A. I looked at the first and the last. They are clipped together. I have seen this before.

Q. And what is that? A. That is the transcription made of the typewritten notes of Joseph L. Taborsky's confession on March 1st, at 6:30 P.M.

Q. Now, before we -

MR. BILL: May that be marked for identification?

THE COURT: Exhibit DD for identification. Mr. Burke, this is really the first exhibit that I have any inkling be-

longs in the State v. Taborsky case, except as I understand it CC also belongs in it.

MR. BURKE: CC.

THE COURT: For identification.

MR. BURKE: Yes.

THE COURT: That is the statement before Judge Bordon. I was thinking perhaps I should mark this Exhibit B, with the reservation being that CC will become Exhibit A. Do you have any preference?

MR. BILL: No, I have no preference.

THE COURT: Of course, I can proceed right along.

MR. BURKE: Whatever Your Honor wishes.

THE COURT: It might be easier for counsel if I mark this DD for Identification, in the Taborsky case, and then as we go along there will be lapses alphabetically in that case, and you will understand that.

MR. BURKE: Yes, Your Honor.

THE COURT: Is there any objection to doing that?

MR. BILL: No, Your Honor.

THE COURT: We will mark this DD for identification in the case of State vs. Taborsky.

(Eight page statement of Joseph L. Taborsky marked "State's Exhibit DD for Identification," Case No. 21,665)

Q. Are you able to tell us, without referring to this last document, substantially what your questions were and the answers were that took place between you and Taborsky that afternoon on Friday, March 1st? A. I believe that I can.

Q. Will you do so? A. I asked Joseph Taborsky where he went from Zion Street, in Hartford and he says "We went to New Britain." I asked him the purpose, and he said the purpose was to get money, to hold up a place. I asked him who was with him and he says "The other fellow", or "Another fellow." I asked him whether or not he was driving in the other fellow's car, and he said that he was, and that the other fellow was driving, and when they got to Stanley Street, New Britain, he told the other fellow when they passed a gasoline station the name he didn't know, but he thought it had some kind of wings as an emblem, and he told the other fellow to turn around and drive into the station.

I asked him whether or not he went into the station. He says "First we got gas", and then he went into the station toilet. I asked him what happened then, and he said the other fellow marched the attendant into the station. I asked him how the attendant was dressed and he said that he had on a cap with a black peak, and further identified it as a gasoline station attendant's cap, and that this other fellow was pointing a gun at this attendant and marched him into a room straight ahead of the door as you enter, and that he, Joseph, started to search the place.

I asked Joseph whether or not he heard any noises. Taborsky said that he heard a shot. I asked him how many and he said "I think one." I asked him who came out of this room, and he said "Only the other fellow."

I asked him then what happened and he said a car drove in the yard. I asked him if he talked to the operator. He said "no". I asked him "Did you order him to do anything?" He says "Yes, I went to the operator of this car and pointed a gun on him and told him to go into the toilet." He says the other fellow - he didn't know, Joseph said he didn't know the makes of cars, but the other

fellow had his car, he thought was a Buick, and that there was a little child in this car. I asked him whether or not it was a boy or girl. Taborsky said that he thought that it was a little girl. I asked Taborsky what he then did, and he says he followed this man and who he believed had his hands held over his head, into the toilet of this gasoline station. I asked him what he next did. He said that he shot him. I asked him where, and he says - pointing to the vicinity of his head, "On the left side." I asked him how many times, and he said "Twice." I asked him where - whether these shots were scattered or together. I asked him whether or not this man - he then searched the man. He says "No, I took his wallet from him before we went into the station." I asked Taborsky what position this man fell in, and he says "I think on his left side."

I asked Taborsky what he next did. He said "We left the place, the other fellow and I." I asked Taborsky where he had gotten his gun. He said that the other fellow loaned it to him and he returned it to the other fellow. I asked him how much money he received from the - was taken from this gasoline station. I believe that he said that his share was $125.00, and I believe I asked him whether or not they went to the other fellow's home and divided the money, and he said that they did.

Q. Does that complete the statement as you remember it? A. As I recall it right now, Mr. Bill.

MR. BILL: Your witness.

THE COURT: Mr. Burke.

CROSS EXAMINATION BY MR. BURKE:

Q. Lieutenant, the last time that I recall we were discussing this matter we referred to - I believe the last question was when I asked you whether or not you had used his mother to obtain the confession and your answer

was "It could be interpreted that way." Do you recall that? A. That is correct.

Q. That was up to Wednesday, as I recall it?
A. That is correct.

Q. Now, you had Joseph picked up on Saturday afternoon, didn't you? A. I did.

Q. And on Saturday night you had him locked in the cell of your barracks? A. Yes, sir.

Q. Now, when you lock a man up in a cell in those barracks do you make a record or note of it?
A. We usually do.

Q. Did you in this case? A. I discovered in the courtroom that I did not.

Q. Why didn't you, Lieutenant? A. An oversight, Mr. Burke.

Q. Isn't it a fact that you didn't want any record made that you were holding him there as long as you did? A. No, sir, Mr. Burke.

Q. Now, after you picked up Joseph in the afternoon or he went to your barracks, you sent men out to his mother's home that night, didn't you? A. You are talking about Saturday?

Q. Yes, Saturday? A. Yes, sir.

Q. When your men went out there they didn't tell Mrs. Taborsky he was arrested? A. No, sir, he wasn't arrested at that time.

Q. They didn't tell her the police were holding her son, did they? A. I wasn't there, Mr. Burke.

Q. Well, you know they didn't, don't you, Lieutenant? A. I wasn't there, Mr. Burke, I don't know.

Q. Now, did you at anytime in the days you were holding Joseph Taborsky at anytime call his mother and tell her that you had him? A. I did not call her, that is correct.

Q. So that as far as you know, the first time she knew her son was being held by you was on Tuesday when she went to Police Court in New Britain?
A. Yes, sir.

Q. Now, after you had taken this action we talked about on Saturday night, or your men had taken him, Joseph asked you or told you he wanted a lawyer, didn't he - on Saturday night I am talking about? A. No, sir.

Q. Didn't he tell you, when you said he was under arrest, that he wanted to talk to his lawyer, Nathaniel Bergman? A. No, sir, Mr. Burke, he did not.

Q. And when you placed him under arrest did you tell him, "You are under arrest."? A. Yes, sir.

Q. Now, Lieutenant, you didn't tell him, did you - you did not tell when your men locked him up - you did not tell him at anytime he was under arrest on Saturday night? A. Yes, I did.

Q. Where did you tell him? A. At the State Police barracks after we had something to eat and I resumed my questioning of Joseph Taborsky.

Q. And you did tell him in what words - what did you say? A. We were talking about his alibi for the fifteenth

MR. BURKE: May that be stricken?

THE COURT: Yes, it may go out, it is not responsive. Listen to the question, Lieutenant, and answer the question that is asked please. Will you read the question, Mr. MacGlashan?

(The reporter read the question.)

A. I wouldn't remember my exact words, Mr. Burke.

Q. What would you say in substance - or what did you say in substance? A. That this was a serious offense we were investigating and that the story he told me was not true - you now admit you are lying - there is going to be required further investigation, and there is a Section in the Statute which permits me to arrest and hold you and charge you.

Q. You told him all that? A. Substantially that, Mr. Burke.

Q. Did you tell him the crime or the felony with which you felt he had committed or was about to commit? A. No, sir, we discussed murder.

Q. You didn't tell him before that that you had a reasonable ground to believe he had committed a felony when you arrested him? A. I arrested him.

Q. You arrested him under the statute 191 (d), didn't you? A. Yes, sir.

Q. And that statute, you testified, you knew said that the police may arrest a man if they feel or have reasonable grounds to believe that he has committed a felony or is about to commit one? A. Yes, sir.

Q. You didn't tell him of the felony you had reasonable grounds to arrest him on?, A. I discussed many felonies.

Q. Did you tell him what felony? A. I don't believe I did.

Q. You just locked him up downstairs? A. I told him why he was being locked up.

Q. All right. Now, after he was locked up you didn't see him again until the next morning, did you?
A. Yes, sir.

Q. And I believe we went into that - the condition of his cell - you recall that testimony, don't you?
A. I believe I do.

Q. So that on Sunday you questioned him again?
A. Yes, sir.

Q. And as I recall it, you said you questioned him sometime around noontime? A. Before noon.

Q. Now, do you recall him telling you again that he wanted a lawyer? A. Joseph Taborsky did not ask for a lawyer or tell me he wanted a lawyer that day.

Q. Isn't it a fact, Lieutenant, he told you Saturday night when you questioned him here and on Sunday he told you again? A. No, sir.

Q. Isn't it a fact you said to him, "You don't need a lawyer - I will let you know when you need one"?
A. Yes, sir. We talked about a specific charge later in the presence of his mother in the New Britain Court.

Q. I am talking about Saturday night or Sunday, please. A. May I have the question again?

THE COURT: Will you read the question?

(The reporter read the question.)

A. No, sir.

Q. He didn't tell you on Saturday night he wanted to see Mr. Bergman? A. No, sir, he didn't.

Q. You didn't tell him he didn't need a lawyer?
A. No, sir.

Q. And that you would let him know when he needed a lawyer? A. No, sir.

Q. Now, on Sunday, did he not again ask you to permit him to contact his lawyer? A. No, sir.

Q. If he had talked to you, you would remember, wouldn't you, Lieutenant? A. I feel I would have remembered and complied with his wish.

Q. Will you search your memory, Lieutenant - remembering you are under oath and answer whether he asked for a lawyer on Sunday? A. No, sir, he did not.

Q. Do you recall saying to him that you would let him get a lawyer later when he needed one? A. No, sir.

Q. Did you also say to him he didn't need a lawyer because you had charged him with nothing specific and this was just an investigation?

MR. BILL: Objection.

MR. BURKE: Claim it.

MR. BILL: He said, "Did you also say" so and so, and he just denied it.

MR. BURKE: Strike out the word "also".

THE COURT: Answer it without the word also.

THE WITNESS: No, sir.

THE COURT: Perhaps this is a good place to stop. Step down, Lieutenant. Will you escort the accused from the courtroom?

Recess until two o'clock, Sheriff.

(Recess at 12:55 P.M.)

JUNE 13th, 1957. 2:00 P.M.

THE COURT: Bring up the accused, Sheriff.

(Accused present)

(Jury and alternates not present)

MR. McDONOUGH: If Your Honor pleases, we are ready to offer that testimony now.

THE COURT: Any objection, Mr. Burke?

MR. BURKE: No objection, Your Honor.

MR. McDONOUGH: We are ready to proceed, Mr. Bill, on the jail testimony.

MR. BILL: This is in the Culombe case?

MR. McDONOUGH: Yes, this is in the case of Arthur Culombe, Your Honor.

THE COURT: Yes, I understand.

FRANK KAZMARZIK, a witness called by the accused Culombe, having been sworn by Mr. Coburn, testified as follows:

BY THE ASSISTANT CLERK:

Q. Your full name? A. Frank Kazmarzik.

Q. Where do you live? A. 108 O'Donnel Road, New Britain.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. What is your occupation? A. I am the office deputy at the county jail.

Q. Office Deputy at the County Jail? What do your duties consist of? A. Keeping records of the men that are kept for any period of time, keeping records of discharges, and helping with the administration of the jail.

Q. On February 26th, 1957, and for some time prior to that and since that date have those been your duties?

A. Yes, they have.

Q. In response to an order of this Court have you brought the records of the county jail relative to Arthur Culombe, especially in reference to a mittimus in your possession committing him to the jail on the 26th of February 1957? A. I have.

Q. Have you that mittimus here? A. I have it right here.

MR. BILL: No objection.

THE COURT: Culombe's Exhibit 6 for identification.

MR. McDONOUGH: Yes, Your Honor.

(Mittimus of New Britain Court for Arthur Culombe, marked "Culombe's Exhibit 6 for Identification")

Q. Defendant Culombe's 6 for identification, what is that, I will ask the witness. A. It is a mittimus issued by the police court of the City of New Britain on Arthur Culombe on February 26th, charging him with breach of peace continuing it until March 5th, under $25,000.00 bond.

Q. Does the bottom of that mittimus, signed by the Clerk of the Police Court, charge the County Jail to keep Culombe within said prison until he be discharged by due process of law?

MR. BILL: It speaks for itself, I suppose, Your Honor.

THE COURT: Do you object?

MR. BILL: Yes.

MR. McDONOUGH: May I be heard, Your Honor?

THE COURT: Yes.

MR. McDONOUGH: For the purpose of argument of these motions, we had the offer by Mr. Bill of the confession. Naturally these are not being offered as full exhibits,

so I think for the purpose of convenience their use in argument should be allowed.

THE COURT: It was my understanding that you would keep them as full exhibits under the identification, so under that ruling I would sustain the objection, because it is a conclusion of law.

MR. McDONOUGH: Then, in order to avoid that I want to read into the record the latter portion of this mittimus.

THE COURT: Do you object?

MR. BILL: Oh, no. I think that is where it should come from.

MR. McDONOUGH: We will do it that way. Defendant Culombe's Exhibit 6 for Identification, at the bottom of the mittimus it states "These are, therefore, by authority of the State of Connecticut to command you to take and convey the said Culombe to the jail in Hartford, in Hartford County, and him deliver to the keeper thereof and leave with him this warrant, and said keeper is also commanded to receive and keep the Said Culombe within said prison until he be discharged by due course of law. Dated at the City of New Britain, this 26th day of February A.D. 1957." And a name, "Clerk of said Police Court."

Q. Now, have you with you the official jail record or book pertaining to the reception of Culombe in the jail in compliance with that mittimus? A. Yes, I have.

Q. And what is that book known as? A. It is known as the log book.

Q. How long has that log book been in use?

A. This particular one has been in use since October 19th, 1956.

Q. And it is still in use? A. It is still in use.

Q. And what entries are kept in that book?

A. Any activities at the jail that should be recorded are kept in here, such as the daily happenings, anything of an unusual nature such as sickness, discharge, any punishment to a prisoner, a man being discharged other than during the office hours would be entered in here.

Q. Under February 26th, 1957 - question withdrawn. Is that book necessary to be used at the jail? In other words, if we keep it here will it seriously inconvenience the jail?

A. Yes, it would. This is actually a diary and kept in chronological order. Any lapses in here would tend - it would not only be inconvenience; it would cause considerable difficulty in keeping our records straight.

MR. McDONOUGH: I am asking that, Your Honor, to clarify the situation, because I'll proceed and I may run into objection, but Your Honor knows why.

THE COURT: All right.

Q. Does the log book before you show whether or not Arthur Culombe was received at the county jail on February 26th, 1957? A. Yes, it does.

Q. What is the entry in that book? A. On the date of February 26th, 1957, at 8:50 P.M. Joseph Taborsky committed and adjourned A cell.

Q. That is the alphabetical A? A. That's right. Arthur Culombe committed, adjourned, D cell. Keep both above deadlocked and separated.

Q. On the 27th of February is there a notation concerning Arthur Culombe? A. Yes, there is.

Q. And is that the same Culombe referred to in the notation of February 26th? A. Yes, it is.

Q. What is the entry of February 27th regarding

Arthur Culombe? A. 10:00 A.M., Culombe adjourned, D cell, borrowed by State Police.

Q. And what does that indicate to you as the keeper of the records, that he was borrowed by the State Police?

A. That he was in the custody of the state police and they were responsible in the event anything should have happened to him.

Q. And do the records show that he was taken from the jail on the 27th by the State Police? A. This notation here indicates that he was taken from the jail.

Q. Whether or not the jail record that you have before you, or any other record that you may have shows any discharge from the jail on the 27th of February 1957 by Culombe by due prosess - by due course of law other that that notation "borrowed"? A. No, I don't.

MR. McDONOUGH: That's all. Thank you.

THE COURT: Any cross, Mr. Bill?

MR. BILL: No.

THE COURT: You may step down.

MR. BURKE: Your Honor pleases, would the witness remain here because I want to put my evidence on for the same thing.

THE COURT: I wonder if it would be a convenience, would there be any objection to Mr. Burke using the witness for whatever purpose he sees fit?

MR. BILL: No, no. Does that close your -

MR. McDONOUGH: Yes, with this witness. I have one more we have from the jail.

MR. BILL: Won't Mr. Burke want him, too?

MR. McDONOUGH: Yes, he will.

MR. BILL: Why don't they put the two of them on and then he question him next and Mr. Burke will start in?

MR. McDONOUGH: I think that is the better procedure.

THE COURT: All right.

CHARLES BAIKAL, a witness called by the accused Culombe, having been sworn by Mr. Coburn, testified as follows:

BY THE ASSISTANT CLERK:

Q. Your full name? A. Charles Baikal.

Q. And your address? A. 80 Newington Avenue, New Britain, Connecticut.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Baikal - A. Just one second, please, sir.

Q. Surely. Mr. Baikal, what is your occupation? A. I am a guard at the county jail.

Q. And how long have you been a guard at the county jail? A. More or less twenty years.

Q. And on February 27th, 1957, were you on duty as a guard during the day, during the morning? A. I was.

Q. You know Arthur Culombe, the defendant, who sits at this table? A. I do.

Q. Was he an inmate of the jail on that day? A. He was.

Q. Did you have occasion to go to his cell on the morning of February 27th? A. I did.

Q. Tell His Honor just what you did? A. Well, it was a normal procedure. The State police had called for somebody to be borrowed.

Q. Who was to be borrowed? A. I was directed to go to his cell and unlock the cell, bring him to the gate of the jail. The state police took him over from then on.

Q. After he left the gate? A. That's right.

Q. In other words, he was unlocked from his cell into the block, wasn't he? A. That's right.

Q. Then you took him to the block door which leads to the outside, opened the door, let him go through, and the state police grabbed him? A. That's right.

MR. BILL: I move that that word "grabbed" --

THE COURT: The word "grabbed" may go out.

MR. McDONOUGH: All right. Took him into custody.

THE COURT: Is there any reason why Mr. Burke can't, out of order, do the same thing?

MR. McDONOUGH: I am now through, Your Honor, as far as Culombe's confession is concerned.

MR. BILL: You are?

MR. McDONOUGH: Yes.

MR. BILL: Then this becomes Mr. Burke's case, and I would just as soon, if he wants to withdraw Lieutenant Rome for the moment and put these two men on, I have no objection.

THE COURT: Let's do it, Mr. Burke.

FRANK KAZMARZIK, having been previously sworn was recalled by the accused Taborsky and testified as follows:

DIRECT EXAMINATION BY MR. BURKE:

Q. For the record will you give us your full name, sir? A. Frank Kazmarzik.

Q. And where are you employed? A. The Hartford County jail.

Q. What is your -

THE COURT: For the record we can just say "Recalled". You don't need to go through that again.

MR. BURKE: It was a new proposition and I thought we should have it in the record.

THE COURT: All right.

Q. What is your capacity at the county jail? A. I am the Office Deputy.

Q. And as such what are your duties? Are you keeper of the records? A. Keeper of the records and help in the administration of the jail.

Q. Did you in response to a subpoena or order of the Court produce the log book or record of the jail? A. I did.

Q. Did you also bring with you certain other papers regarding Joseph Taborsky? A. I did.

Q. Do you have the records with you? A. I have.

Q. May I see them? I show you this paper. Will you tell me what it is? A. This is the mittimus issued from the police court of the City of New Britain on February 26th, 1957.

Q. Was that received by you and kept in the course of your business? A. Yes, it was, sir.

MR. BURKE: May I offer it?

THE COURT: You mean to have it marked for identification?

MR. BURKE: For identification.

THE COURT: And it is your first one, isn't it?

MR. BURKE: Yes, Your Honor.

THE COURT: May be marked Taborsky's Exhibit 1, for identification.

MR. BILL: No objection.

(Mittimus of New Britain Court on Joseph Taborsky, marked "Defendant Taborsky's Exhibit 1, for Identification")

MR. BURKE: For the record, Your Honor, Defendant Taborsky's Exhibit 1, is a mittimus issued from the City Court of New Britain ordering the defendant to become bound to $25,000 for his appearance before said Court according to said adjournment and to answer said complaint and abide the order of said Court, and stand committed until such order for bonds has been complied with, and he, neglecting and refusing to produce bonds as aforesaid, a reasonable time having been allowed therefor, these are therefore by authority of the State of Con-

necticut, to command you to take and convey the said Taborsky to the jail in Hartford, in Hartford County, and him deliver to the keeper thereof and leave with him this warrant, and said keeper is also commanded to receive and keep the said Taborsky within said prison until he may be discharged by due course of law.

The reverse of it shows that by virtue of this warrant Taborsky was delivered to the keeper of the jail and left with him this warrant, and it is signed "Samuel Rome, State Policeman."

Q. In accordance with that mittimus do your records show that you received Joseph Taborsky? A. Yes, they do.

Q. What day? A. I have an entry here under date of February 26th, 1957.

Q. And does it indicate the time of receipt? A. It does, 8:50 p.m. Joseph Taborsky committed, adjourned, A cell.

Q. Do your records indicate how long he remained in your jail? A. I have an entry here on the morning of February 28th, 1957, "8:30 a.m. Joseph Taborsky, A cell, borrowed by State Police Sergeant Rome."

Q. Do your records there indicate that Taborsky was discharged from the jail to the custody of the state police? Is that what that indicates? A. It indicates that he was taken out by the state police.

Q. And do your records indicate whether or not the state police had any order from any court, especially the City Court of New Britain? A. No, they do not.

Q. If there were any such records would you have them? A. I would.

Q. And do you have them? A. I don't.

Q. Then I gather there is no record, no order of any Court permitting Taborsky to be discharged into the hands of the state police? A. Not to my knowledge.

Q. When was he brought back? Do your records indicate that? A. I have an entry here on the evening of February 28th, Joseph Taborsky, adjourned, A. Cell, discharged, Joseph Taborsky committed, B.O.-being bound over - A cell.

Q. And was that on a subsequent mittimus issued from this Court? A. It was. I don't have any recollection of seeing that mittimus. This entry was made by the guard on duty at the time.

Q. Do you have in your records any mittimus to keep Joseph Taborsky in jail? A. I have one, but none of that date.

Q. What is the date on the one that you have?
A. I have a mittimus here dated March 12th, issued from the Superior Court of Hartford County, charging Joseph L. Taborsky with murder in the first degree, hold without bond.

Q. But prior to March 12th, there was no mittimus except the one from the court in New Britain? A. That's right, other than this entry in the log book.

Q. And then you say, according to your log, that was discharged? A. He was discharged from the New Britain charge on February 28th, was then committed as a bind over prisoner on the same day, on the strength of the bench warrant that was issued. We never received the bench warrant.

Q. You have no bench warrant and you have no mittimus? A. Not to my knoyledge.

Q. What authority, then, did you use to hold him from February 28th to March 12th? A. On the strength

of this entry here and the fact that we had been told the warrant had been sworn out that morning in court.

Q. But you never saw the warrant? A. I never saw the warrant.

Q. And you never saw any mittimus?

THE COURT: Any cross?

MR. BURKE: That's all.

CROSS EXMINATION BY MR. BILL:

Q. Who made the entry? A. This particular entry was made by Deputy Sher f O'Toole.

Q. That is bout the bind over? A. That's right.

Q. On February 28th? A. On February 28th.

Q. What time? A. There is no time entered in the log book but I imagine that it was between four and five.

MR. BILL: Thank you.

MR. BURKE: Sheriff O'Toole, will you take the stand?

PATRICK G. O'TOOLE, previously sworn, recalled.

DIRECT EXAMINATION BY MR. BURKE:

Q. Sheriff, you have been sworn? A. Yes.

Q. You are employed at the jail among your other duties? A. Yes, sir.

Q. And you were so employed on February 28th? A. Yes.

Q. Would you look at the log book before you and I ask you if you recognize it? A. Yes, sir.

Q. What is it? A. It is a log book kept in the due course of business at the jail.

Q. Would you note the entry on February 28 of this year? A. Yes, sir.

Q. Do you see any notes made by you? A. I do.

Q. Do they concern Joseph Taborsky? A. They do.

Q. Would you read them, please? A. An entry - "Joseph Taborsky assigned A cell - discharged." Skip two lines. "Joseph Taborsky committed BO-A cell."

Q. By what authority did you make the first entry that he was discharged? A. By virtue of a bench warrant that had been issued here on Joseph Taborsky on the morning of February 28th when he was presented in court.

Q. Do you have any authority from the Court in New Britain discharging him from the continuance to March 5? A. There was no order from the New Britain Court, no, sir.

Q. And who instructed you to make that entry that he was discharged? A. I wasn't instructed by anyone, sir.

Q. And did you from this Court receive any mittimus on the day you made that entry? A. I don't know if there is a mittimus received or not on this particular entry.

Q. Do you recall receiving one? A. I would think there would have been one in order for him to be discharged and recommitted as a bound over prisoner.

Q. If you received such a mittimus, wouldn't you turn it over to the keeper of the records? A. Not right at hand, but we let the records accumulate through the night for the Officer.

Q. Is it your recollection you discharged him from the New Britain Court? A. No.

Q. And held him for this Court purely on the basis of the bench warrant issued? A. I knew the bench warrant had been issued.

Q. Did you see it? A. I did.

Q. Did you have it in your possession? A. I don't know whether I had a mittimus or a bench warrant from the Superior Court, but I know there was one issued.

Q. Did you see the bench warrant? A. I did.

Q. Was it served on Taborsky, do you know?
A. It was.

Q. You didn't have any order of this Court to move him, did you, except that bench warrant? A. Other than what permission Judge Bordon gave here that morning and the bench warrant.

Q. Well, where is the bench warrant you had from what you made those notations? A. I don't know where it is now.

Q. Do you recall having it in the jail at anytime?
A. I saw it at the jail - one of the State Police had it at the jail.

MR. BURKE: May I ask the State's Attorney if he has the bench warrant?

MR. BILL: Why no, the Clerk would have it. I don't handle them after they are issued by the Court.

THE COURT: The answer is no.

MR BILL: May I ask the Clerk if he has the bench warrant?

(Paper produced by Mr. Coburn.)

Q. Is this the bench warrant you had? A. Yes, it is.

Q. Did you have a copy of it for use at the jail?
A. I had a copy of it - I don't know whether it was used at the jail, but I know I saw it.

Q. Who served this bench warrant, do you know?
A. Lieutenant Rome.

Q. Did he serve it at the jail? A. The bench warrant - I don't know if it was served here or upstairs or downstairs or in the hallway or where it was served.

Q. And in response to this bench warrant Taborsky was brought into this Court, wasn't he? A. Yes.

Q. And what time does the entry say you discharged him from the Police Court of New Britain? A. It was between five and five-fifteen on February 28 - five-fifteen P.M., that is.

Q. The bench warrant orders him brought into this Court on the 28th day of February and he was brought in in the morning, wasn't he? A. He was brought in in the morning, yes, sir.

Q. Did you obtain any kind of mittimus from the Court to lock him up after? A. He wasn't in my custody.

Q. By what authority did you then discharge him from the New Britain Court? A. By authority of the bench warrant.

Q. The bench warrant terminated the case in New Britain? A. It seemed to me it did.

Q. Were you instructed to do anything? A. No, sir.

Q. You did it on your own? A. That's right.

Q. Were you on duty at the jail on the 27th, the day the State Police borrowed him? A. No, sir.

Q. You were not on duty that day? A. Not at that hour of the morning, no, sir.

Q. Was that an unusual occurrence - to borrow Taborsky? A. Well, it is the first time Taborsky had been borrowed to my knowledge.

Q. Did you ever hear the State Police borrowing prisoners before they borrowed Taborsky? A. Offhand I can't think of any. .

Q. Do you know what kind of a paper the State Police used to borrow a prisoner? A. In this particular case, Judge Bordon directed that he could be taken out at anytime.

Q. He did? A. Yes, on the 28th.

Q. And the entry of the borrowing is on the 27th?

THE COURT: Not according to the testimony. I have it as the 28th.

THE WITNESS: Eight-thirty A.M., February 28th, Joseph Taborsky borrowed by State Police.

Q. And Judge Bordon made his order sometime later in the morning - after eight-thirty? A. That's right.

Q. So that he wasn't brought in in accordance with any ruling of Judge Bordon? A. Not at that hour of the morning.

Q. Do you know what he was borrowed on - what paper or law he was borrowed on? A. No, I don't know of any and I had nothing to do with his being borrowed at that time - I wasn't on duty.

Q. Does the book say anything about the authority for the lending of the prisoner? A. No, sir.

MR. BURKE: I think that is all.

THE COURT: Any cross examination?

CROSS EXAMINATION BY MR. BILL:

MR. BILL: Yes. Would you produce, if you can find it, the order of Judge Bordon on the 28th in the Culombe and Taborsky cases?

MR. COBURN: I think you have them there.

MR. BILL: That came from your file?

MR. COBURN: Yes.

MR. BILL: Where is the one on Taborsky?

MR. COBURN: It is not in the file.

MR. BILL: You can't find it?

MR. COBURN: It is not in the file.

MR. BILL: Is that the Taborsky file?

MR. COBURN: I have the bench warrant. The other file is on the Judge's desk.

MR. BILL: Who was the Clerk at that time, do you know?

MR. BURKE: Mr. Ferguson, I believe.

MR. BILL: Is he around?

THE COURT: Here is something, Mr. Bill.

MR. BILL: I have a copy.

THE COURT: No, this is later.

MR. BILL: Here is what I am looking for. That is a copy. Well, Your Honor, I think State's Exhibit CC, which is the case of State versus Taborsky - the Superior Court proceedings on February 28th - covers what I am after here. It says, reading from that:

"Mr. Wright: Joseph L. Taborsky is now before the Court, and at this time, Your Honor, I make a motion to the Court that Sheriff Potter be commanded to release Joseph L. Taborsky into the custody of John C. Kelly, Commissioner of State Police or his Deputy, for the purpose of further investigation, following which investigation said Joseph L. Taborsky shall be returned to the Hartford County Jail."

Then at the end of the transcript the Judge says: "The motion of the State's Attorney is granted."

THE COURT: All right.

CROSS EXAMINATION BY MR. BILL:

Q. Now, were you present on duty in this courtroom at that time, sheriff, when the proceedings were going on? A. Yes, sir, I was.

Q. Did you hear what I just read that took place in the courtroom? A. I did.

Q. That the Court had granted that order? A. I did.

Q. And did you act on that? A. I did.

Q. Did that result in that annotation you made in that book?

MR. BURKE: May I ask which annotation - there are three?

MR. BILL: Wait a minute. I will withdraw that.

Q. As a result of that hearing, did you make any annotation on the log book at the jail? A. Yes, I did.

Q. What was it? A. That Joseph Taborsky - A - cell was discharged, and the next entry was - Joseph Taborsky committed - BO - A - cell.

MR. BILL: Rather than go into it again, would it be permissible at this time to cover the Culombe matter or would it confuse things.

MR. McDONOUGH: I am willing that you do it.

MR. BURKE: I am not. Mr. Bill thinks we should do this in blocks and I agree.

MR. BILL: All right.

THE COURT: Go ahead.

BY MR. BURKE:

Q. This business of making this entry in accordance with the order of Judge Bordon as to what you heard in this court, you didn't have any paper from Judge Bordon? A. No, sir.

Q. You didn't have any mittimus? A. No, sir.

Q. You didn't have anything except what you heard him say? A. That is right.

Q. And this happened several hours after he was borrowed, is that not so? A. Yes, he was borrowed - taken out at eight-thirty in the morning.

Q. Did you hear anything in Judge Bordon's order that says he was discharged from the court in New Britain? A. No, sir.

Q. Nothing? A. No, sir.

Q. So that you didn't act in accordance with Judge Bordon's order when you discharged him from the New Britain Court's mittimus, did you? A. Not downstairs, no, sir.

Q. So you have no authority to discharge him from the New Britain Court? A. My authority was the bench warrant. He was rearrested on the bench warrant and the bench warrant superseded the New Britain Court.

Q. That is what you acted on? A. Yes.

Q. But that had nothing at all to do with the letting out of Taborsky on the morning before he came to this Court? A. That is right.

MR. BURKE: That is all.

* * * * *

MARTIN BAIKAL, previously sworn, recalled.

DIRECT EXAMINATION BY MR. BURKE:

Q. You have been sworn. You are a guard at the County Jail and have been for many years and were on the date of February 28th, right? A. Yes.

Q. On that morning do you recall Joseph Taborsky being borrowed by the State Police? A. To my knowledge I think I do recall - I think he was brought over.

Q. And which of the many State Policemen borrowed him? A. I don't recall.

Q. Do you recall it was this gentlemen in the corner here, Rome? A. I don't recall.

Q. Do you let out prisoners to the State Police from time to time? A. It is a routine procedure with us.

Q. And if the prisoner is in there under a mittimus, such as Taborsky was, from New Britain Court, the State Police can go up there and borrow him? A. It has been done to my knowledge.

Q. And you don't demand any kind of an order from the Court? A. Offhand, we have them sign a mittimus showing they are in their custody.

Q. Did you in this case have them sign the mittimus - and I show you this mittimus - Taborsky Defendant's Exhibit 1? A. In this case we didn't have them sign the mittimus.

Q. Just came up and said, "Let us borrow him" - and you said, "Fine" - and away they went? A. They have to show proper identification.

MR. BURKE: That is all.

THE COURT: Anything from this witness, Mr. Bill?

MR. BILL: No.

(Witness excused.)

MR. BILL: Shall we go ahead on Culombe?

MR. McDONOUGH: Yes.

MR. BILL: Mr. Clerk, I show you that order. Did that come from your files?

MR. COBURN: Yes, it did.

MR. BURKE: May I inquire what this is?

THE COURT: This is not your case.

MR. BILL: I cooked it up while you were dreaming.

THE COURT: You may inquire, Mr. Burke, but isn't any of your concern.

MR. McDONOUGH: Mr. Bill, are you offering this?

MR. BILL: Yes.

MR. McDONOUGH: Is this a part of the file of the Court?

MR. BILL: Yes.

MR. McDONOUGH: And you want the Court to take judicial notice of it?

MR. BILL: That is right.

MR. McDONOUGH: I have no objection to the Court taking judicial notice of any file, but I want to point out

this occurred since the borrowing.

THE COURT: You can point out anything you want that is proper.

MR. BILL: The reason I want it in the record, whereas this Court might recognize it and read it, I think the original should be in there for the record.

THE COURT: Suppose you read it for the record?

MR. BILL: May I have it marked?

THE COURT: I don't see any need to mark it if you read it.

MR. BILL: (Reading) Case number 21,654, State versus Arthur Culombe, February 28th, 1957. To Daniel Potter, Sheriff, Hartford County, Greetings:

"You are hereby commanded to release Arthur Culombe into the custody of John C. Kelly, Commissioner of the State Police or his Deputy for the purpose of further investigation. Said Arthur Culombe shall be returned to the Hartford County Jail following such investigation. Bordon, a Judge of the Superior Court.

MR. McDONOUGH: What date is that, Mr. Bill?

MR. BILL: February 28, 1957.

MR. McDONOUGH: That doesn't bother me. My argument is on the 27th. That is when he was borrowed.

MR. BILL: I wanted it in the record. That is the reason for it.

THE COURT: Is there anything further, Mr. Bill, at this time?

MR. BILL: I understand, Your Honor, from the clerk, that he has in his files the order on Joseph Taborsky that would ordinarily follow what I read from the transcript of the Taborsky. Have you?

ASSISTANT CLERK COBURN: No, I haven't.

MR. BILL: But Your Honor will take notice of the exhibit, I presume, that I read, as the order that Judge Bordon made.

THE COURT: I have taken judicial notice of it.

MR. BILL: That's all, Your Honor.

THE COURT: Now we will resume with the Taborsky case. Lieutenant Rome.

SAMUEL ROME, having been previously sworn, was recalled and testified as follows:

CROSS EXAMINATION BY MR. BURKE: (RESUMED)

Q. When, Lieutenant, if ever, did you permit Joseph Taborsky to contact a lawyer?

MR. BILL: May I have that?

THE COURT: Read it, Mr. Burke.

(Last question read by reporter)

MR. BILL: I object to that question.

THE COURT: I will sustain the objection as to form.

Q. Did you at any time, Lieutenant, permit Joseph Taborsky to contact his lawyer?

MR. BILL: Objection.

MR. BURKE: Claim it, Your Honor.

MR. BILL: The word "permit" would assume that he had made a request for a certain attorney.

MR. BURKE: That's my claim.

MR. BILL: I object to it.

THE COURT: I know it is, but that isn't the evidence. I'll have to sustain it.

Q. How many times, if you can recall, Lieutenant did Joseph Taborsky request permission to contact his lawyer? A. At no time.

Q. None at all? A. No time.

Q. And so as far as you know he never did ask you at any time he was in your custody, to see his lawyer? A. To the contrary he said that he did not wish a lawyer.

Q. How many times did he say he did not wish a lawyer? A. More than once.

Q. More than once? A. Yes, sir.

Q. And this occurred from the time that you took

him into custody on Saturday, until he was presented to this Court? A. That is what I mean, yes, sir.

Q. Now, on February 28th, the record shows that you went to the County Jail, did you not, to see Taborsky? A. Yes, sir.

Q. At 8:30 in the morning? I think you testified around nine o'clock, but that is about the time, isn't it? A. Yes, sir.

Q. And the record shows that you borrowed Taborsky. I ask you, Lieutenant, did you have any order of a Court at 8:30 that morning? A. No, sir.

Q. Did you have any kind of a paper or any authorization whatsoever to take Taborsky from the county jail? A. Nothing in writing, sir.

Q. Didn't you know that he was in the county jail by virtue of a mittimus of the court of New Britain? A. Yes, sir.

Q. Which mittimus you, yourself, served? A. Yes, sir.

Q. And didn't you know that the mittimus, which is Defendant Taborsky's Exhibit 1, ordered the jail keeper to receive and keep him until he be discharged by due course of law? You knew that, didn't you? A. Yes, sir.

Q. Why did you take him out without the authority of any Court, Lieutenant? A. There was a request made by me of the New Britain Court. And as a result of that for the removal, written permission - and as a result of that I made the request of the Sheriff, or his deputy, which was Mr. O'Toole.

Q. Let me get this straight. You talked to the Court in New Britain, did you? A. No, sir, a request was made of me by my Captain, and I talked to someone in New Britain and received word from the judge that I was to make my request of the County Jail.

Q. Let me get it straight, Lieutenant. You requested who? Who did you talk to? What is his name? A. Captain Kelly of the New Britain Police Department.

Q. You talked to Captain Kelly? A. Yes, sir.

Q. And you told Captain Kelly that you wanted to borrow Taborsky, I assume. A. In those words.

Q. What did you tell him? A. I asked Captain Kelly if he would contact the judge and see whether or not the judge thought we needed a written order from him to remove this man from the county jail for further investigation.

Q. What time did you do this and what day? A. I don't know but it was before his removal, Mr. Burke.

Q. Well, was it in the morning of the 28th? A. I am of the opinion that it was the 26th.

Q. It was the 26th? A. Yes, sir. I am of that opinion.

Q. What is that? A. I am of that opinion.

Q. The 26th you asked Captain Kelly? A. Yes, sir, that's the day we got the original mittimus from New Britain.

Q. What time did you ask Captain Kelly this on the 26th? A. Sometime in the evening.

Q. Sometime in the evening? A. Yes, sir.

Q. And you asked Captain Kelly to ask the Court to permit you to take Taborsky from the jail for further investigation. Is that what you asked him? A. I asked Captain Kelly to ask the Court whether or not any permission was needed in writing from the Court, and I was told that I was to contact the sheriff of the county jail and my business was with him.

Q. Who told you this, Lieutenant? A. Captain Kelly.

Q. Captain Kelly? You knew what the mittimus said, didn't you? A. It was an order from that Court.

Q. Yes, and you know that an order of the Court has to be obeyed until it is discharged or revoked by the Court that gives the order? A. Unless the judge who gives the order so sees fit to change it.

Q. Did you talk to the judge? A. No, I talked to a reliable source.

Q. So you didn't talk to the judge to get any release of the Court order? A. No, sir.

Q. So you went ahead on the say so of another policeman and took a man out of jail contrary to the order of the Court, didn't you, Lieutenant? A. No, sir.

Q. You had no relea. e of that order, did you?

A. No, sir. Acting on that information I talked to Deputy Sheriff O'Toole, at the County Jail, and he says to make my request when I needed him, and it was a practice of the jail as long as I identified myself and I could have that man for further investigation.

Q. Whether or not the Court released the order, you could have him? A. Those words were not used.

Q. You asked Deputy Sheriff O'Toole, if you could borrow a man from the jail that was put in jail by the order of a Court, and you accepted that, Lieutenant?

A. Knowing what Captain Kelly told me the Court's wishes were, yes, sir, I did.

Q. You wanted him out of the jail anyway, didn't you, Lieutenant, any way you could get him out, so you could question him some more? Isn't that the reason that you borrowed him? A. I told you how I got him out of there.

Q. I am asking you why you got him out that way and didn't go to the Court and get an order the proper way? A. I was conducting the investigation in Hartford. Captain Kelly was closer to the court in New Britain, and that was the best way I saw it.

Q. Captain Kelly never told you that the Court released the order did he? A. He didn't use those words, no, sir.

Q. Of course he didn't. He told you to go see Potter, the sheriff, didn't he, and make your deal with him?

A. He told me that the judge suggested that I make my request of the sheriff.

Q. And this was done, you say, on the 26th?

A. I am quite sure it was the evening or night of the 26th, yes, sir.

Q. You didn't bother from the 26th to the 28th, to go see the Court who ordered the man jailed?

A. I didn't feel it was necessary after receiving that information from Captain Kelly.

Q. So you decided to go see a deputy sheriff? A. I didn't see him. I called him.

Q. Called the deputy sheriff? Why didn't you call the keeper of the jail, or the head jailer? A. I am of the opinion that Mr. O'Toole was the - was in charge that evening.

Q. He was in charge? A. I think that I made that request of the one who was in charge. Yes, sir.

Q. Was he in charge the next day when you took Culombe out? A. I don't recall.

Q. The head jailer was there that day, though, wasn't he? A. I don't know.

Q. Didn't you ask him if you could take Taborsky out the next day?

THE COURT: You don't mean that, do you? You switched from Culombe to Taborsky.

MR. BURKE: Yes.

THE COURT: And it wasn't the next day, was it?

MR. BURKE: Yes, it was the 28th. He took Culombe out on the 26th.

THE COURT: Go ahead. I am a little confused.

Q. You took Culombe out on the 27th, didn't you? A. No, sir.

Q. Borrowed him? A. No, sir.

Q. You didn't borrow him on the 27th? A. No. Sergeant Paige did.

Q. Sergeant Paige borrowed him? Were you at the jail with Sergeant Paige when he borrowed Culombe? A. No.

Q. You had all day to contact the head jailer at that jail, didn't you, on the 27th? A. I had other things to do.

Q. I am asking you if you had all day to contact him?
A. If I had in mind to contact him I might have found time.

Q. Now, you had all day to contact the judge of the Court in New Britain, too, didn't you, on the 27th?
A. I didn't think tnat it was necessary. I had received word from a reliable source.

Q. You didn't answer the question. Lieutenant.
A. I am sorry.

Q. You had all day, did you not, to contact the judge of the Court or the prosecutor of the Court? A. Yes, if that's what I had in mind to do.

Q. You didn't have much trouble reaching the prosecutor, did you? A. I don't understand that question.

Q. If you wanted to reach the prosecutor of the Court, or the judge, it wouldn't be much trouble to do it, would it? A. If I saw fit to want to reach him.

Q. If you saw fit to do it? A. Yes, sir.

Q. But you didn't see fit to do it? A. I don't understand that question.

Q. You didn't see fit to call the Court or call the judge, or call the prosecutor to get a man out of jail contrary to the order that put him in, did you? A. Not after the informat.on that I had, no, sir.

Q. You realize that that was an illegal act, didn't you, Lieutenant? A. No, sir. I did not.

MR. BILL: Objection Your Honor.

THE COURT: I will sustain it. The answer may go out.

Q. Didn't you realize that you were acting contrary to the order of the Court in borrowing a prisoner?

A. Repeating myself, Mr. Burke, I felt that I was acting under the Court's instructions when I contacted the Deputy Sheriff, or the person in charge of the county jail. Yes, sir.

Q. But the very same day in this court you were the one who asked for permission to have the Court put Taborsky in your custody for further investigation, weren't you, through the State's Attorney, Mr. Wright? A. Yes, sir.

Q. You knew that was what you had to do, didn't you? A. There was a different warrant then, Mr. Burke.

Q. But you knew that is what you had to do to get a man out of jail, didn't you, get an order of the Court, and you failed to do it Thursday morning? A. I did it Tuesday night.

Q. You got an order from the Court Tuesday night?
A. I received information from the Court how to proceed regarding the removing of the man from the county jail.

Q. You got information from the Court? What officer of the court or who of the court gave you such information?
A. I was told the judge himself.

Q. You didn't get if from the judge, did you?
A. Indirectly, yes, sir.

THE COURT: Mr. Burke, I understand that situation. He got if from Captain Kelly.

MR. BURKE: I understand it too, Your Honor. I am trying to bring out the illegality of it.

THE COURT: Whether there is or there isn't, you have the facts, haven't you?

MR. BURKE: All right.

Q. Now, Lieutenant, let's go back again to Saturday and Sunday and Monday. Saturday, Sunday and Monday you had Taborsky in your custody, didn't you? I am talking about the morning of February 23rd, February 24th and February 25th. A. I am trying to give it a little thought, Mr. Burke. Yes, sir.

Q. And for the time that he was in your custody you did not notify either his wife or his mother that you had him, did you? A. I talked with his wife yes, sir.

Q. What day did you talk to his wife? A. That would be after the confession.

Q. After his confession? He didn't confess Saturday or Sunday or Monday, did he, Lieutenant? A. No, sir.

Q. Sir? A. No, sir.

Q. So did you call his wife, or do you want to correct the statement that you talked to his wife during those three days? A. No, sir.

Q. You want to let that stand? A. I talked to her after the confession.

Q. You said first that you talked to her during those three days? A. I didn't mean it to sound that way.

Q. You want to correct that? You didn't talk to her until after the confession. Right? A. I talked to Joseph Taborsky's wife the day that I permitted him to talk to his wife. Now, I am not quite certain of the day.

Q. You know, Lieutenant, it was sometime later in the week, around Friday, don't you? A. I am of that opinion.

Q. You are certain of it, aren't you? A. I am not.

Q. You are certain that it was not Saturday, Sunday, or Monday? A. I am quite certain that it wasn't Saturday, Sunday or Monday.

Q. And you didn't talk - strike that - you didn't notify his mother, either, did you, Saturday, Sunday or Monday.

MR. BILL: I object, Your Honor. There is no obligation on the police to notify anybody. I think that that is immaterial.

MR. BURKE: It isn't immaterial, Your Honor. What we are trying to prove here is a scheme to hold this man incommunicado to impose on him the same old psychological pressure they are using in the iron curtain countries much more effectively than the rubber hose.

THE COURT: You don't want me to pass on that claim, do you?

MR. BILL: I won't even respond to such nonsense.

THE COURT: It isn't necessary, I'll sustain the objection. And Sheriff, let's have it understood that there will be no more outbursts. Go ahead, Mr. Burke.

Q. Did you permit him to contact anybody, his lawyer, his mother, or his wife?

MR. BILL: Objection on the use of the word "permit".

THE COURT: I will sustain it.

Q. Did he ask you to contact his mother, his wife, or his lawyer, Monday, Tuesday - I mean Saturday, Sunday, or Monday, Lieutenant? A. No, sir.

MR. BILL: Objection, there is two many questions in one.

THE COURT: I will allow it. He has answered it. Go ahead. Mr. Burke.

Q. On Tuesday, was it, or was it Monday that you took him to the police station in New Britain?

A. Monday.

Q. And his mother was there? A. Tuesday his mother was there when he went to court.

Q. So she was not there on Monday? A. I didn't see her.

Q. So on Tuesday you took him to Court in New Britain and his mother was there? A. Yes.

Q. And did you permit him to talk to her? A. I not only permitted him, I made arrangements so that he could talk to her in privacy. Yes, sir.

Q. In privacy? A. Yes, sir.

Q. Were you there while they talked? A. Most of the time.

Q. So the privacy his mother - he and his mother talked in was with you? A. As much privacy as you could give a man under those circumstances, Mr. Burke, yes, sir.

Q. So you and his mother and himself and his sister talked, didn't you? A. That is correct.

Q. And what did you ask his mother to do?

A. His mother asked me whether or not he -

MR. BURKE: May I have that stricken, Your Honor, and the question read?

THE COURT: Yes, it may go out and it may be read.

A. Lieutenant, listen to the question and please try to answer the question that is asked. Go ahead, Mr. Burke, read it.

(Last question read by reporter)

A. I don't know.

Q. You don't recall? Do you recall his mother saying to you in the prosecutor's office - that's where you were, wasn't it? A. That is correct.

Q. In New Britain? A. Yes, sir.

Q. Do you recall her saying to you and to Joseph that he should get a lawyer, and you answering "This is only an investigation. He doesn't need a lawyer now." A. No, sir.

Q. Now, in the court in New Britain Taborsky was never put to plea, was he? A. I don't recall that he was.

Q. In fact, the case wasn't even called, was it, Lieutenant? A. I don't know.

Q. Now, on Sunday you talked to Taborsky several times, as I understand it, through the day? A. I don't know how many times.

Q. And you enumerated the murders and robberies that had been committed and you were questioning him about it? A. Yes.

Q. And you asked him if he knew anything about it and he told you nothing, didn't he? A. Words to that effect.

Q. You told him, did you not, he was a cool cucumber, but that eventually you would get a confession; do you recall that? A. Not in those words.

Q. Well, what did you say - what words? A. I may have called him a cool cucumber, an said I had the confidence he would eventually tell the truth.

Q. You didn't say that, did you Lieutenant; what you said was that you would eventually get a confession?
A. I don't recall that.

Q. Didn't you also say to him: "You know, Taborsky, we've got the goods on you. Why don't you make it easy on yourself and your family?" A. No, sir.

Q. You didn't say that at all? A. No, sir.

Q. You didn't say that down at the restaurant when you were having supper, and he answered you: "That's your job?" Do you recall that? A. No, sir, that was not — He answered, "That's your job" in my directly accusing him of being the one directly responsible for these many murders.

Q. What day was it you came into the room you had him in and shouting: "You had better get a doctor for that fellow?"

MR. BILL: Objection, Your Honor. He never had said that.

THE COURT: Sustained.

Q. Did you do that, Lieutenant? A. No, sir.

Q. You talked to him on Monday night again - Taborsky I mean? A. I may have.

Q. What did you question him about? A. Murder.

Q. You didn't just question him about murder, did you Lieutenant? A. That was the subject, Mr. Burke.

Q. You mean different murders? A. The many murders in this area.

Q. And he denied knowing anything about them, didn't he? A. If you are talking about Monday, yes, sir.

Q. I am talking about Monday. You told him that on Monday night. Do you recall coming into the room and telling him that Culombe was talking and are you going to take a rap - he has put it all on you? A. I don't remember that.

Q. You won't deny you said it? A. I feel certain I didn't say it.

Q. Didn't you ask him just after that when he denied — when he told you he didn't care what Culombe was

saying — you asked him: "Are you willing to take a lie-detector test?" Do you recall asking him about that?

A. I think I did talk about a lie-detector test.

Q. And he said he would take one, didn't he?

A. Yes, he did.

Q. And you recall telling him: "You were lucky once, Taborsky, but we'll fix you this time?" A. No, sir, I didn't use the word "fix".

Q. Did you say something of that substance?

A. Yes, sir.

Q. What did you say, if you remember? A. I remember only that during the conversation I am sure I said he was lucky once before.

Q. What else did you say? A. His luck will soon run out.

Q. You told him you would get him this time?

A. No, sir.

Q. Words to that effect? A. Not to that effect.

Q. All through these days, Saturday and Sunday and Monday, did you talk about his mother to him? A. I feel sure I did, Mr. Burke.

Q. And you kept telling him about his mother all the time, didn't you? A. I am certain I talked about his mother.

Q. And you told him she would feel a lot better if he would confess to these murders? A. Yes, I think so.

Q. And at the same time, Lieutenant, you were calling her, weren't you? A. No, sir.

Q. How many times did you call her? A. I don't know, but there were very few times. She called me.

MR. BILL: May I inquire within what time this was in days?

MR. BURKE: Yes, we are talking of from Saturday, February 23, 1957 to Friday, March 1.

Q. You understand that is the period we are talking about - just prior to the so-called confession? A. Which so-called confession?

Q. The one you claim Taborsky made? A. Yes.

MR. BURKE: I am sorry, Your Honor. I shouldn't be asking these questions - or answering them.

THE COURT: I will forgive you this time, Mr. Burke.

Q. Now, on Wednesday you left Taborsky alone and let him stay up at the County Jail all day, didn't you?
A. On Wednesday we were busy on another matter, yes, sir.

MR. BURKE: May that answer be stricken and may I have the question read?

THE COURT: I don't think it's necessary to read it, but I will strike out the last part of the answer and will allow "Yes, sir" to stand.

Q. On Tuesday morning at 8:30 you borrowed Taborsky from the jail?

MR. BILL: Is that a question?

MR. BURKE: Yes.

MR. BILL: We have been through it 5,000 times.

THE COURT: That may be an exaggeration; it may seem like that.

Q. You took him out of the jail Thursday morning, didn't you? A. I removed Joseph Taborsky from the County Jail Thursday morning.

Q. We have gone into that, as Mr. Bill says. Where did you take him? A. We stopped in front of the Hartford Courant.

Q. And you went and got a newspaper? A. Yes.

Q. And the newspaper had a headline on the Culombe confession? A. Yes.

Q. And you wanted to show Taborsky that headline? A. I certainly did.

Q. You thought that would have some effect on Taborsky? A. I certainly did.

Q. And you were hoping it would? A. It did.

Q. And at the same time he was reading the headline you were talking about his mother? A. I don't recall that.

Q. You don't recall telling him if he did the same thing it would ease his mother's conscience and feelings and she would feel better - you don't recall that? A. No, I didn't.

Q. Then after this court hearing here on Thursday when you were in this court, didn't Judge Bordon order you to take care of him properly? A. Yes, sir, and I complied with that order directly.

Q. And didn't Taborsky in the court ask for a lawyer? A. In the court Taborsky said he didn't want a lawyer.

Q. You were here, Lieutenant? A. I was.

MR. BILL: Well, there were many court appearances.

Q. You know the one I mean. Will that refresh your recollection, Lieutenant?

THE COURT: I understood you were referring to the court on Thursday?

MR. BURKE: Yes, Your Honor.

Q. Page 2. Does that refresh your recollection?
A. May I finish; please?

Q. Does that refresh your recollection, Lieutenant?
A. I am reading from your reference to page 2.

THE COURT: The question is: Does it refresh your recollection?

A. Yes, sir.

Q. Do you recall what happened? A. Yes, sir.

Q. Didn't Taborsky ask for a lawyer? A. Yes, sir.

Q. So you were a little confused when you said that?
A. No, sir.

Q. After he left this court you took him under your wing across the street? A. Yes, sir.

Q. Do you recall Taborsky saying: "Would I be able to wash up like I haven't been able to do for almost a week?" A. Are you referring to what happened in the court?

Q. I am referring to what happened in this court on February 28. A. Yes, sir.

Q. Your answer to that was that if he had requested to wash up before, it would have been complied with, but you didn't know he made such a request? A. Yes, sir.

Q. That is what you said? A. That is the truth.

Q. And Taborsky asked you: "Well, you can see by the beard on my face", and that is when the judge asked you if you would give this man every opportunity to wash and shave and rest? A. Yes, sir.

Q. Prior to that you didn't do it? A. I didn't understand.

Q. Prior to what the court ordered you didn't give him an opportunity to wash up and shave? A. I gave him an opportunity to wash up; we don't furnish a valet service over there.

Q. You don't furnish soap either, do you?

THE COURT: We covered that pretty adequately, Mr. Burke.

Q. After you left here you took him over across the street for further questioning? A. Yes, sir.

Q. And questioned him until what time - Thursday, February 28? A. He was questioned for a very, very short time. I went over to New Britain, and my instructions were to feed him and bring him back to the County Jail.

Q. Did you take him to New Britain? A. I took Culombe; I didn't take him.

Q. Where did you leave him when you took Culombe? A. I left him at the barracks.

Q. When you got back from New Britain did you question him again? A. No, sir. It is not my recollection. He wasn't there; he was at the County Jail.

Q. Didn't you take him back to the County Jail? A. No, I instructed others to take him back.

Q. Then you saw him again on Friday? A. Yes, sir.

Q. What time on Friday morning did you see him? A. I didn't see him Friday morning.

Q. And when did you see him on Friday? A. Friday evening.

Q. Didn't you see him at all on Friday during the daytime? A. Five-thirtyish, yes.

Q. And did you question him some more that afternoon around five o'clock? A. No, sir, I brought his mother to him in our interrogation room.

Q. How did he get from the County Jail to the barracks, Lieutenant, on Friday? A. I don't know whether I went for him or sent someone to get him.

Q. What time was that? A. Five o'clock.

Q. Not earlier? A. Thereabouts; I doubt if it was.

Q. When you brought him to the barracks his mother wasn't there then, was she? A. I don't know; I think she was down having some coffee with me.

Q. Didn't you send out to get her about 5:30?
A. I don't recall now who arrived at the barracks first.

Q. Isn't it a fact that while you were waiting for her to come you were talking to Taborsky about his mother? A. I could have been; I am not sure of that. Mr. Burke.

Q. And did you talk to him in this way - maybe not in these exact words, but in substance: "Your mother is a very fine woman, and she was afraid herself when all these crimes were occurring, and now she doesn't know what to say. She is suffering more than you are?" Did you tell him that or words to that effect? A. The words are not familiar. I talked to Joe about his mother.

Q. I don't mean the same words - I mean that in substance. A. In substance I told Joseph Taborsky - I talked to him about his mother.

Q. And didn't you in substance tell him about her suffering? A. I don't recall that. It could be. I could have said that.

Q. Didn't you also ask him at the time, "Where did you meet that imbecilic Culombe?" A. No, sir.

Q. Didn't you say: "You know yourself we are going to get your confession, no matter how long it takes or what it does?" A. No, sir.

Q. Did you say anything in substance like that, Lieutenant? A. No, sir.

Q. Then didn't you say: "Wouldn't it help if we brought your mother in here?" Didn't you say words to that effect? A. I prepared him for the meeting with his mother.

Q. And by preparing you told him how she was suffering and how she believe him guilty; is that what you mean? A. No, I remember knowing she wanted to see him, and she was either at the barracks or on the way.

Q. And you wanted him to know she was suffering? A. I don't recall using that word, Mr. Burke.

Q. Well, words to that effect, Lieutenant? A. I don't recall words to that effect.

Q. You also told him, didn't you, Lieutenant, during this talk or interrogation, at one time or another — I don't know exactly when — that you thought whoever was killing these people disliked Jews? Do you recall that.

MR. BILL: Excuse me. May I have that question, Your Honor?

THE COURT: Yes. Read it, Mr. Burke.

(Last question read by reporter.)

A. I recall a similar conversation, but those words were not used; no, sir.

Q. Similar words were? In substance that's what you said? A. No. I asked him if he disliked Jews.

Q. And then didn't you tell him that's why you asked him that question? A. Yes, sir.

Q. And didn't he tell you or ask you why you asked him that, since his lawyer was Nathaniel Bergman, to whom he owed a great debt of gratitude? A. That's true.

Q. That all went on, didn't it, Lieutenant? A. It did.

Q. But all through this examination and interrogation you constantly referred to his mother and how she was suffering, didn't you? A. I didn't say that.

Q. Well, you were referring to his mother constantly, weren't you? A. I wouldn't say constantly, Mr. Burke.

Q. Well, would you say quite frequently? A. On occasion.

Q. And quite often on occasion?

MR. BILL: Objection, Your Honor. I don't know what that means.

THE COURT: I'll sustain it.

MR. BURKE: I don't care what the State's Attorney —

THE COURT: I'm sure you don't; but I'm not sustaining it because he doesn't understand it. I am sustaining it because I don't understand it. Now, go on, Mr. Burke.

Q. You knew he had a great affection for his mother, didn't you? A. Yes, sir.

Q. And you knew that was a soft spot in him, didn't you? A. He stated that the first night I talked to him.

Q. That's why you kept referring to her all this time? A. That could be one of the reasons, Mr. Burke.

Q. So then on Friday you brought her down from her home, didn't you? A. She asked to see her son, and I afforded her transportation; yes, sir.

Q. Didn't you call her, Lieutenant, or your office call her? A. No, sir.

Q. She called you? A. The call was made in reference to a call she had made a day or so earlier.

Q. Oh, a day or so earlier she had called and asked to see her son? A. Yes.

Q. And you didn't call her back until Friday?

A. I'm sorry. A day or so earlier she had called to tell me —

Q. Would you go on? A. — not to believe a statement she had read in the paper concerning her feeling of innocence towards her son, or words to that effect. That was the call.

Q. She called you to tell you she thought her son was guilty? A. No. She called me to tell me not to believe a statement that she had read in the newspapers concerning something she had made concerning her son's innocence or guilt. The press misquoted her, Mr. Burke, and she wanted me to know that.

Q. At any rate, you called her back on Friday?

A. No. As a result of that — in furtherance of that she wanted to know when she could see her son.

Q. What day did she call you? A. I don't remember the day.

Q. It was before Friday? A. It could have been Friday morning.

Q. It could have been Wednesday, too? A. No; it wasn't Wednesday.

Q. What day was he in the county jail? Wednesday, all day? A. Yes, sir.

THE COURT: We'll stop here, Mr. Burke. You may escort the accused from the Courtroom.

(Accused escorted from Courtroom.)

THE COURT: Short recess, Sheriff.

(Recess at 3:27 P.M.)

JUNE 13, 1957 - 3:45 P.M.

THE COURT: Bring in the accused, Sheriff.

(Accused present. Jury not present.)

THE COURT: Lieutenant Rome, will you take the stand, please? You may proceed, Mr. Burke?

SAMUEL ROME, resumed the stand and testified further as follows:

CROSS EXAMINATION BY MR. BURKE (Resumed):

MR BURKE: May I have the last question, Your Honor?

THE COURT: Read it, Mr Burke.

(Last three questions and answers read by reporter.)

Q. At any rate, she came to the police station about five-thirty, or the police barracks, or five o'clock? A. Yes, sir.

Q. And you stated that you talked to her for fifteen to thirty minutes? A. Yes, sir.

Q. And you say that you were getting her ready to see her son?

THE COURT: No; he said that the other way, didn't he? My information was he said he prepared him to see his mother. Go ahead and ask it, anyway.

Q. Was that it, Lieutenant? A. No, sir.

Q. What was it? A. I had talked to Joe Taborsky and let him know his mother was coming.

Q. And then you were talking to her? A. I talked to the mother; yes, sir.

Q. And after the mother got there you were talking to her before you permitted her to see him?

A. That is probably it sir.

Q. So that is the way what you testified that you were getting her ready to see her son, as I recall? A. I don't like those words. I talked to Joe Taborsky's mother.

Q. And while you were talking to her you told that you had the evidence on her son, or words to that effect?

A. Or words to that effect.

Q. I don't intend that it should be verbatim. A. No, sir.

Q. You also told her, didn't you, that Culombe was pinning everything on him and blaming everything on Joe? A. I told her that Culombe in his confession had stated that it was her son who did all the killing, yes, sir.

Q. And she was pretty much upset by that, wasn't she? A. Mrs. Taborsky had read the newspapers and knew about this.

MR. BURKE: May I have the question re-read and the answer stricken?

THE COURT. Yes. The answer may go out. Read the question, please, Mr. Burke?

(Last question read by reporter)

A. No, sir.

Q. She was not upset at all? A. Not by that.

Q. Didn't you also go on and tell her that you didn't think that Joseph had done all these killings, but Culombe was blaming him for them? A. Not those words, Mr. Burke.

Q. Well, in substance, Lieutenant? A. That Joe had not alone done all the actual shooting.

Q. And his mother was greatly concerned, wasn't she whether or not he was guilty of all these things Culombe said he was? A. That's right.

Q. And you were talking to her about that?
A. About the extent of his implication, the extent of his involvement in these crimes, yes, sir.

Q. And you wanted her to help you find out just how much he was involved? A. No, sir, I wanted her to help, but it was Mrs. Taborsky's idea to find out for herself.

Q. Didn't you ask her to talk to her son and find out what he was involved in? A. To help clarify it, yes, sir.

Q. You wanted her to help you get a confession, didn't you, Lieutenant? A. I have an idea at the back of my mind.

Q. You know that that is so, don't you?

THE COURT: He said so two or three times, that was his intent.

MR. BURKE: He never said so outwardly.

THE COURT: He said it so that I so understood it. Go ahead, Mr. Burke.

Q. Now, that is what the discussion was about before you brought her in to see Joesph? A. Yes, sir.

Q. And you had her pretty well convinced that he was involved in these things, too, didn't you, Lieutenant?
A. Mrs. Taborsky was convinced that her son was involved, I believe, but to what extent she was determined to find out for herself.

Q. Didn't you convince her while you were talking to her that her son was involved to these killings?

A. Yes, sir.

Q. Now, when you brought him up, you brought him up to what room? A. To the interrogation room.

Q. And did you handcuff him to a chair or table?

A. I think that he was handcuffed to Officer Robert Remer.

Q. He was handcuffed to the chair Remer was behind, wasn't he, Lieutenant? A. I repeat I think that he was handcuffed to Officer Remer.

Q. And he was seated in a chair when his mother was brought in? A. Yes, sir.

Q. And then you came in with her? A. I brought her in.

Q. And she was in pretty bad shape then? A. No, sir.

Q. She was not upset? A. I'd say that she was upset, but not in pretty bad shape, Mr. Burke.

Q. And when she came in she said to her son, did she not "Have you really committed the crimes the police say you have?" Do you recall her saying that? A. I don't remember. I wouldn't remember the exact words, but she asked him to confess.

Q. And you recall that he was crying and so was she? A. A bit later. Not right away.

Q. And you recall that she told him about people who were threatening her and calling her? This is all prior to his saying anything. Do you recall that, don't you? A. I can't recall that, Mr. Burke.

Q. Do you recall your telling Joe -- do you recall Officer Remer telling Joseph "Your mother has gone

through enough. Tell us everything and make her feel better." Do you recall him saying that? A. Officer Remer did very little talking. I don't recall him saying that.

Q. Do you recall him saying words to that effect? A. No, sir. Yet he could have.

Q. He could have said it? A. I don't recall Officer Remer - I don't recall any words that he said.

Q. And wasn't that the time that Joseph started to cry and his mother did, too? A. No, sir.

Q. And isn't that when you asked him to again - or again asked him to tell her how he was involved in these things? A. I don't understand that question.

Q. Well, at the time they were both crying you were there, Remer was there? A. I was there.

Q. Who else was there? A. Joseph Taborsky and his mother.

Q. And they were both crying there and you told Joseph to tell what he knew about these things so his mother would feel better? A. No, sir. His mother was at that point - his mother was crying and brought out some tears from Joe. She had told him that she would still love him and she wanted him to please tell the truth, "You can say it now."

Q. And you were right behind her, telling him to, weren't you? A. I was almost in between them.

Q. You were urging him, too, to tell the truth and make his mother feel better? A. I was urging him to tell the truth, Mr. Burke.

Q. And make his mother feel better? A. It wasn't -

THE COURT: No, did you say that or didn't you?

A. No, I didn't.

Q. Didn't you, after, Lieutenant, when Mr. Matus came in that room, didn't you tell Matus that the reason that Joe told you what he did was to make his mother feel better? Do you recall that? A. I don't think that Mr. Matus came in there.

Q. This was after? A. Even after.

Q. After his mother had left? A. Even after.

Q. So after Joe did say yes, he was involved, then you immediately got rid of her, didn't you, asked her to leave? A. I had her removed, or took her from the room, and explained to her and to Joe in order that we may get the details of these murders in writing.

Q. And at that time she was crying pretty heavily, wasn't she, and he was, too? A. No, Joe wasn't crying at all.

Q. He was not crying then? A. No, sir.

Q. Did he cry at all? A. He had cried momentarily when his mother was pleading with him to tell the truth.

Q. Then after she left or you had her taken out, or removed, however you express it, then you brought O'Brien in? A. I asked that Detective Vincent O'Brien come in. Yes, sir.

Q. And who was there when he came in? A. I also asked for Captain Philip Schwartz.

Q. Who else? Was Remer still there? A. Detective Sergeant Donald Paige.

Q. Remer was still there, wasn't he? A. I feel sure Remer remained.

Q. Then you started asking questions, didn't you? A. Yes, sir.

Q. And what you asked him, he would say "yes" or "no"? A. We took a statement in question and answer form. Yes, sir.

Q. This is the statement that you say you took?

THE COURT: Showing him what, Mr. Burke?

MR. BURKE: State's Exhibit DD, Taborsky.

A. Yes, sir.

Q. Now, as you asked him questions, Lieutenant, you were prompting him on what the answers were, weren't you? Let me refresh your recollection. Let's take the cap. Didn't you tell him that the attendant had a green cap with a black visor? A. No, sir.

Q. Didn't say anything about that? A. No, sir.

Q. Well, how much did you prompt him? A. I don't recall prompting him. I may have said - this question "Did you stop anywhere in New Britain?" And his answer was "Yes." And I'd say "Where" and so forth, if you call that prompting.

Q. Well, some of the prompting doesn't appear in here, does it? A. Detective Vincent O'Brien took it all down. It should be all there, Mr. Burke.

Q. Wasn't there some things which he didn't take down when you were framing the question until you got it ready, then you would ask the question and get an answer? A. I would say no, he is a very capable -

Q. I am asking you what you did, Lieutenant?

A. I instructed Detective O'Brien to take this all down, and that is what I believe were the questions and the answers that I asked and were given that day.

Q. After this statement was drawn, as you say it was was it read to Taborsky, or did he read it?

A. No, sir.

Q. He just signed it? A. No, sir.

Q. What did you do? A. That was taken in shorthand.

Q. Yes. A. And it was transcribed, and at a later date we all read it. I read it aloud. Joe Taborsky and the others had a copy, and Joe Taborsky wrote in longhand in his own handwriting "I have read the above statement consisting of eight pages and it is the truth." This was two days after he had given us the statement which was taken by Detective O'Brien in shorthand.

Q. He didn't read it over again, did he? A. We all read it, yes, sir.

Q. You all read it out loud? A. I read it out loud. I gave the others a copy.

Q. Did he have a copy? A. He did.

Q. Did you let him keep the copy? A. No, sir.

Q. You took it back? A. That's right.

Q. You would not have gotten any confession without his mother, would you, Lieutenant? A. I wouldn't say that.

Q. And that is the reason why you had her come down, to get it, isn't it? A. No, sir.

MR. BURKE: That's all.

THE COURT: Mr. Bill, is there anything further?

MR. BILL: No questions.

THE COURT: You may step down, Lieutenant. Call your next witness.

MR. LABELLE: Officer Reimer.

ROBERT RIEMER, a witness called by the State, having been sworn by Mr. Coburn, testified as follows:

BY THE ASSISTANT CLERK:

Q. Your full name? A. Robert Riemer.

Q. And your address? A. Bristol, Connecticut.

DIRECT EXAMINATION BY MR. LABELLE:

Q. You are a member of the State Police Department, are you, Officer? A. I am, sir.

Q. How long have you been a member of the State Police Department? A. Just over five years, sir.

Q. And in the course of your duties as a state policeman, - state police officer, on March 1st were you participating in an investigation concerning Joseph Taborsky? A. I was, sir.

Q. And on that date, March 1st, when did you commence this investigation? A. Concerning Joseph Taborsky, I accompanied Lieutenant Rome and Sergeant Paige to the county jail approximately around five p.m. that day and Joseph was brought back to state police barracks, 100 Washington Street.

Q. That is, Sergeant Paige and Lieutenant Rome and you went to the jail to get him? A. That is correct, sir.

Q. And you brought him back to the barracks? A. Yes, sir.

Q. And that was sometime around five o'clock in the afternoon? A. Approximately five p.m., sir.

Q. When you got back to the barracks where did you go? A. I believe we went up to the third floor, up to the Special Service Division, in the interrogation room.

Q. And who went into the interrogation room?

A. Joseph Taborsky, Sergeant Paige and myself, and Lieutenant Rome, but then he left shortly.

Q. Was anyone else there when you arrived at that room? A. Not at that time, sir.

Q. What was your duty in connection with this - withdraw the question. What were you doing with reference to Taborsky on this occasion? What was your assigned duty? A. Primarily guard duty, I would assume.

Q. Were you taking part in any interrogation or discussion, or questioning? A. I may have said a word or two.

Q. But you were primarily there as a guard?

A. Yes, sir.

Q. Now, when you got to the interrogation room was there a discussion with Joseph Taborsky concerning the investigation? A. Not until Lieutenant Rome came back, I don't believe.

Q. But when you got there Lieutenant Rome left the room immediately? A. I believe that he did, sir.

Q. And you and Sergeant Paige and Taborsky were there? A. I believe that we were there.

Q. And there wasn't any questioning or discussion taking place? A. I don't think that there was, sir.

Q. Then what is the next thing that happened?

A. A short while later Sergeant Paige, I believe, went down to get a bite to eat, and Lieutenant Rome entered the room with Mrs. Taborsky.

Q. That is Taborsky's mother? A. Yes, sir.

Q. And then in the room at that time there was

Taborsky, Mrs. Taborsky, Lieutenant Rome and you?
A. That's right, sir.

Q. No one else? A. No, sir.

Q. When Mrs. Taborsky came into the room with Lieutenant Rome tell the Court what happened?
A. Mrs. Taborsky took a chair opposite Joseph, and they were talking, and I believe that she asked Joseph if he had been involved in these crimes, and that if he were, he should tell her, because she would still love him even though he were involved.

Q. Was there an answer to that by Taborsky?
A. I believe he said that he was involved.

Q. Can you give us his words? A. I can't quote him exactly, but he did again say he was involved in these crimes.

Q. Now, were you present when a further discussion concerning the confession was made or had with his mother and Taborsky? A. Yes, sir.

Q. And was it the details of several incidents including the New Britain one that was discussed? A. They were discussed, yes, sir.

Q. With reference to the New Britain incident, which is the subject of this testimony, do you recall anything that was said by Joseph Taborsky concerning the New Britain affair? A. I believe Joseph mentioned that he had shot a customer who came into a gas station in New Britain and the other fellow, who he did not name, had shot the proprietor.

Q. Were you present in the room when the details of the New Britain affair were eventually taken down by Detective O'Brien? A. Yes, sir.

Q. How long did Mrs. Taborsky stay in the room?
A. I would say about twenty minutes or so.

Q. And after Taborsky said that he was involved and he began to tell something about New Britain, was Mrs. Taborsky there at that time? A. She was, sir.

Q. And concerning the New Britain discussion, particularly with reference to the customer, was Mrs. Taborsky present when Taborsky told you he had shot the customer?
A. I believe she was there at that time.

Q. When Mrs. Taborsky left, is that when Detective O'Brien came in? A. Yes.

Q. And who else came into the room? A. I believe Captain Schwartz, Sergeant Paige and Detective O'Brien entered the room when Mrs. Taborsky left.

Q. And is that the time Lieutenant Rome began to phrase questions to Taborsky and he started to answer?

MR. BURKE: I object to it.

THE COURT: I will sustain it.

Q. I won't press it. After Detective O'Brien and Captain Schwartz and Sergeant Paige came in what was the next thing that occurred? A. Lieutenant Rome started questioning Joseph concerning these various crimes.

Q. Was it questioning and answering for a record?
A. I believe Detective O'Brien was taking them down in shorthand.

Q. And you saw him doing that? A. I saw him in there with a pad writing something down, sir.

Q. I show you State's Exhibit DD for identification and ask you if you can recognize that paper? A. This is the first time I have seen this paper.

Q. You haven't seen this paper? A. No, sir.

Q. And you are not a witness to it? A. No, sir.

Q. So that you don't know anything about the paper yourself? A. No, sir.

Q. But you were present when the questions and answers - the questions were propounded and the answers given? A. I was, sir.

A. And so far as you know they were recorded in shorthand by Detective O'Brien? A. As far as I know, yes.

Q. Was Taborsky sitting down in this room he was in? A. He was, sir.

Q. And where were you with relation to Taborsky?
A. I was sitting to his right side.

Q. Was he handcuffed at anytime to anything or to you? A. No, when we were in the interrogation room he was handcuffed with his hands in front of him.

Q. He was handcuffed by his own hands, but not attached to you or any furniture? A. No, sir.

MR. LABELLE: You may inquire.

THE COURT: Mr. Burke

CROSS EXAMINATION BY MR. BURKE:

Q. Officer Reimer, when Mrs. Taborsky was brought into that room, her son was sitting there handcuffed next to you? A. Yes, sir.

Q. He wasn't handcuffed to the chair? A. No, sir.

Q. You are certain of that? A. Positive, sir.

Q. You were sitting next to him? A. Yes, sir.

Q. Were you standing behind him? A. I was sitting next to him, I believe.

Q. Didn't you get up and stand behind him, however? A. Not that I recall, sir.

Q. When his mother got up did he stand up? A. He may have to greet her.

Q. And they embraced, didn't they? A. I don't recall that, sir.

Q. And you stood up too behind him, didn't you? A. I don't remember, sir.

Q. And when she started talking to him telling him how badly she felt - wasn't she doing that? A. She was concerned for Joseph, yes, sir.

Q. And wasn't she telling him that Lieutenant Rome had told her that Culombe had pinned everything onto her son Joseph? A. That wasn't said in front of me.

Q. You were there, weren't you? A. That is right.

Q. And she asked him if he was involved in this to tell her? A. She told him if he was involved in any of these crimes to tell her, that she would love him just

the same as though he weren't.

Q. Did she say what she would or would not do if he did not talk? A. She said she would love him just the same regardless of his answer.

Q. You were talking at that point, weren't you?
A. I don't believe so.

Q. Didn't you tell him to tell the story and confess to these things - it will make your mother feel better?
A. I thing after he had spoken I told him, "This will make your mother feel better."

Q. You stated that before? A. No, I gave him my handkerchief. He was crying. I believe he was crying when he acknowledged to his mother that he was involved.

Q. And she was crying too? A. Her eyes were damp.

Q. And they were crying prior to that, weren't they?
A. No, I don't remember. I remember him crying when he acknowledged he was involved.

Q. Then you say that after he said he was involved Mrs. Taborsky was taken out of the room? A. Well, I believe she asked him to tell her the people he had shot because the other fellow had frame him for all the shootings.

Q. She said that after he said he was involved?
A. I believe so, sir. That was mentioned anyway.

Q. Then she was taken out of the room? A. I believe Joseph explained to her the details of the various crimes - not the complete details - but so she would know which ones he was involved in.

Q. And while he was explaining it there, Detective Rome was questioning him at the time? A. Some of the time he was questioning him.

Q. And prompting him? A. Not prompting.

Q. What was he doing? A. He may have spoken a few words, but not prompting.

Q. Didn't he say, "How did this happen" - how about this and how about this and how about that other one - naming other incidents? A. I don't think Joseph needed any prompting.

Q. I am asking you if Lieutenant Rome was doing it? A. I don't believe he was prompting anybody.

Q. What was he saying? A. I don't recall.

Q. Do you recall what Mrs. Taborsky was saying at that point? A. I know she mentioned she still loved Joseph irregardless of what he did.

Q. You don't have a clear recollection of the details? A. I was there primarily as as a guard.

Q. Your recollection goes only to what Joseph and his mother said? And not so much as to what Rome had to say? A. There were more words said by Joseph and his mother than I have said.

Q. Don't you remember Lieutenant Rome pushing this thing along? A. I didn't think he was pushing it along.

Q. Didn't he tell Joseph: 'Your mother is feeling better" - as he was talking? A. He told Joseph his mother was probably feeling better when he told the truth.

Q. And you said that several times, didn't you? A. I don't believe so.

Q. And then after Mrs. Taborsky was taken out of there, O'Brien came in? A. Among other people, yes.

Q. And then Lieutenant Rome started to ask some more questions? A. Yes, sir.

Q. And do you recall how these questions were asked?
A. They were asked by Lieutenant Rome.

Q. He would frame a question, wouldn't he, and if Joseph had a one word answer, he would rephrase it again?
A. Well, I can't say that, sir.

Q. You don't recall that? A. He may have. I don't say he didn't.

Q. That is all you know about this thing? A. That's about it, sir.

Q. You were sitting behind Taborsky, weren't you, that day - not to the side of him? A. I believe I was to the side of him - maybe a slight distance to the rear.

Q. And you were leaning over talking into his ear?
A. I was sitting close.

Q. Weren't you leaning over and talking into his ear? A. I told him I thought his mother felt [redacted]r.

Q. Before that. You told him to go ahead and talk - she was in back of him? A. No, sir.

Q. Didn't say anything like that? A. No, sir.

Q. Did you hear his mother say to him that if he didn't confess she wouldn't be his mother any more?
A. No, sir.

Q. You didn't hear that? A. No, sir.

Q. You were there, weren't you? A. Yes, sir.

Q. Your memory is bad? You have a poor memory or a good memory? A. I don't know, sir.

Q. You can't remember any details of this particular thing? A. I didn't make any notes, if that is what you mean.

Q. You don't recall Lieutenant Rome prompting this thing as it went along - both when the mother was there and after she was gone? A. Lieutenant Rome spoke, yes; I don't call it prompting.

MR. BURKE: That is all.

* * * * *

VINCENT O'BRIEN, previously sworn, recalled as a witness by the State.

DIRECT EXAMINATION BY MR. BILL:

Q. Detective O'Brien, whether or not you were present on March 1, 1957 at State Police Headquarters when Joseph Taborsky was there and Lieutenant Rome and some others and a statement was made? A. Yes, sir, I was.

Q. Whether or not you make a record of this statement in shorthand? A. Yes, sir, I did.

Q. Who was asking the questions? A. Lieutenant Rome.

Q. And who was answering the questions?
A. Joseph Taborsky.

Q. About what time was this? A. It started at 6:30 P.M. that evening.

Q. Who was present? A. Captain Schwartz, Lieutenant Rome, Sergeant Paige, Officer Riemer, Joseph Taborsky and I.

Q. Showing you State's Exhibit DD for identification, will you examine that and tell me what that is? A. This is a transcript of the shorthand notes I made that evening - March 1.

Q. That is, the shorthand notes made that evening?

A. It is a transcript of some of the questions and answers.

Q. Now, when you say some of the questions and answers, what does that transcript contain? A. This contains questions put by Lieutenant Rome and answers by Joseph Taborsky concerning the murder in New Britain.

Q. Now, were there other incidents that were questioned about that evening of March 1? A. Yes, sir.

Q. And were they in question and answer form?
A. Yes, sir.

Q. Did you take that down? A. Yes, sir.

MR. BURKE: That is objected to as irrelevant.

THE COURT: I will allow it.

Q. This transcript you have in your hand, I would take it, was prepared at a later date, was it not? A. From my notes, yes, sir.

Q. I will cover that later. Is that the exact verbiage as you heard it - the questions and the answers?
A. Yes, sir.

Q. In other words, was there anything more said in your presence than what you have done there? A. Not to my recollection, sir.

Q. So that as far as you remember, whatever Lieutenant Rome said in the way of a question, it is down there verbatim?

MR. BURKE: I object to it; it is leading and calls for a conclusion.

THE COURT: I will overrule the objection.

MR. BURKE: Exception.

THE COURT: Yes. Will you answer the question?

THE WITNESS: Yes, sir.

A. The answers there - were they taken down just as they were said?

MR. BURKE: Objection. Leading.

THE COURT: Overruled.

MR. BURKE: An exception?

THE COURT: Surely.

THE WITNESS: Yes, sir.

Q. And is that a complete and exact transcript from the stenographic notes that you took that evening at headquarters on March 1 on the questioning in relation to the New Britain affair between Lieutenant Rome and Taborsky?

MR. BURKE: I object to that.

THE COURT: The same reason?

MR. BURKE: Yes, sir. It is the entire statement and it can be only answered by Yes.

THE COURT: Or no - so it isn't leading. I will overrule the objection.

MR. BURKE: Execption?

THE COURT: Surely.

THE WITNESS: Yes, sir.

Q. About how long did that statement take to be made and taken down that evening, do you know?

A. No, sir, I can't - Here is the time when the questioning started.

Q. Is that there? A. I recorded the time as 6:30 P.M. The questioning started then. It ended about 7:50 P.M. The time this New Britain case was discussed - the exact time I do not have.

Q. That was included within the hours you have just stated? A. It was included in that hour and twenty minutes.

Q. And exactly when that between statement was made you don't know? A. No, sir, one incident followed another.

Q. Did there come a time when you did transcribe the notes on the New Britain affair from your stenographic notes? A. Yes, sir.

Q. And when was that? A. On Sunday, March 3.

Q. And is that when it was done? A. That is when it was transcribed by me.

Q. And completed? A. Yes, sir.

Q. And after that was done whether or not you and some others visited Taborsky on that day - Sunday?

A. I did not, no, sir.

Q. You are not a witness to that - I didn't look to see. But you did prepare it, and is that the complete transcript of your notes on the New Britain affair - and I am now referring to State's Exhibit DD for identification.

MR. BURKE: I object to it as leading and repetitious.

THE COURT: I agree. I will sustain the objection.

Q. Did you type it? A. Yes, sir.

MR. BILL: Your witness.

CROSS EXAMINATION BY MR. BURKE:

Q. Do you have your notes with you from which you transcribed this? A. Yes, sir.

Q. Will you get them together, please? A. Yes, sir.

Q. You have it now? A. Yes, sir.

Q. In that book of notes you have - that is written in shorthand? A. Yes, sir.

Q. And any person who knows shorthand can read them? A. I don't know, sir.

Q. This is a system of your own or can anyone read them? A. I studied the Gregg System when I went to school. There are many forms which a person accustomed to writing shorthand might develop in endeavoring to shorten forms which they use frequently.

Q. Now, is there anything in there - those notes you took - that does not appear in the transcript? A. From the time I started until it ended - in those eight or nine pages - everything that is in here is in there.

Q. What is in your notes before the New Britain incident? A. Nothing that I recall.

Q. When you took these notes you stopped - it wasn't a continual question and answer - weren't there period when you stopped and Rome would rephrase or reframe the answer? A. No, there was no reframing. As Lieutenant Rome asked, I wrote it down, and as Taborsky answered I wrote it down.

Q. Did you write everything he asked? A. Everything that was directed at Taborsky during that period.

Q. Did you take down that which was not directed? Were there other questions or other talk that does not appear in your notes? A. After the questioning had been completed there might have been other conversation, but once I started to write - once the questioning started, I started to write, and I continued until it ended.

Q. You took down every word that was said by Rome and Taborsky? A. I believe so, yes, sir.

Q. Were there things that Rome said that do not appear in this transcript? A. Not that I remember.

Q. You don't have them in your notes at any rate? A. Everything that is here in this note book.

Q. Did you go over this and check it against your notes? Did you check it back? A. No, sir.

Q. You say those are the notes? A. Yes, sir.

Q. May I have them, please? I just want the notes that concern this.

THE COURT: There is no reason why he can't take the book part?

MR. BURKE: May I have it marked?

THE COURT: That presents a different question. There may be things there that have no bearing on this.

MR. BURKE: I am just concerned with this portion of the book that concerns the New Britain affair.

THE COURT: May I ask you this before there is any segregation? Is it your purpose now to have it marked for identification?

MR. BURKE: Yes, Your Honor.

THE COURT: Because later, if there is any reason for offering it, it might be necessary that some separation be made. Is that satisfactory, Mr. Bill?

MR. BILL: I didn't hear the claim following Your Honor's statement.

THE COURT: He is entitled to have it marked anyway. If he wants to keep it in for identification it doesn't make too much difference, and if it is claimed later we can remove the parts that are irrelevant.

MR. BILL: Couldn't Detective O'Brien read how many pages there are and have those marked for identification - mark the pages 1, 2 and 3 - would that be in order? Where it winds up and where it starts.

THE COURT: We may be doing a lot of unnecessary fussing. Can you separate them?

THE WITNESS: Well, the part that starts on this page and ends on this page. Up above here deals with another matter.

THE COURT: Suppose you count the pages.

MR. BILL: I will agree to identify the New Britain matter.

THE COURT: Suppose we mark it now, and if it is different later, we will have it explained?

MR. BURKE: All right, Your Honor.

THE COURT: Mark it Defendant Taborsky's Exhibit 2 for identification.

MR. BURKE: Have you the pages segregated?

THE WITNESS: Yes, I am doing it now.

THE COURT: Do you want a clip? Do you remember how many pages there are?

THE WITNESS: Nine full pages and part of two others.

THE COURT: Nine full pages and parts of two pages. Now will you mark that Defendant Taborsky's Exhibit 2 for identification, please?

(11 pages clipped together in notebook marked Taborsky's Exhibit 2 for identification)

Q. Now, prior to the questions and answers by Lieutenant Rome was Joseph Taborsky warned of his Constitutional rights? A. Not in my presence.

MR. BURKE: I think that's all, Your Honor.

THE COURT: Mr. Bill, anything further?

MR. BILL: Nothing further.

THE COURT: You may step down, Officer. Will you call your next witness?

MR. BILL: There's nothing further on Taborsky - the Taborsky confession.

* * * * *

10:15 A.M. - JUNE 14th. 1957

THE COURT: Bring in the accused, Sheriff.

(Accused present)

(Jury and alternates not present)

THE COURT: You may proceed whenever you are ready, Mr. Burke.

MR. BURKE: Yes, Your Honor. Joseph Taborsky.

JOSEPH LOUIS TABORSKY, the accused, having been sworn by Mr. Coburn, testified as follows:

BY THE ASSISTANT CLERK:

Q. Your full name? A. Joseph Louis Taborsky.

Q. And your address? A. Brooklyn, New York.

DIRECT EXAMINATION BY MR. BURKE:

Q. Now, Joseph, on Saturday, Februrary -

THE COURT: Mr. Burke, may I assume that the witness has been properly advised as to his rights and privileges with reference to testifying?

MR. BURKE: Yes, Your Honor, I told the witness.

THE COURT: You may proceed.

Q. Joseph, I want you to recall Saturday, February 23rd. Do you recall at what time and where the police contacted you on that day? A. It was about two o'clock in the afternoon in front of my house - my mother's house on Park Terrace.

Q. And tell us what happened? A. I was getting ready to get into a car and Officer Moran asked me would I come down to the state police barracks for questioning by Lieutenant Rome. He said "You are not under arrest. He just wants to question you," and "will you go?" He said "You can come with me or follow down in the car."

Q. And you did that? A. Yes.

Q. Now, when you arrived at the barracks here on Washington Street was someone waiting for you? What did you do when you arrived there? A. Went upstairs to a large office and sat down near a desk and shortly thereafter Lieutenant Rome came in.

Q. Well, who took you upstairs to the office, if anybody? A. Officer Moran and Officer Griffin.

Q. And were they waiting for you outside the place, or did you meet them inside? A. They had just driven into the driveway and as I got out of the car that I was in they were looking back to see that I came ahead.

Q. Now, did you have anything with you? A. I had two bags with me. One bag contained a bottle of soda and a bottle of whiskey. The other bag contained toilet articles such as shaving cream, lotion, and a tooth brush and tooth paste.

Q. What size bags were they? A. Both of them were large bags.

Q. Now, you were upstairs in the office and you say Lieutenant Rome came in? A. Yes, sir.

Q. Did you have the bags with you when Lieutenant Rome came in? A. Yes, sir.

Q. And where were they? A. I believe that I still had them in my arms.

Q. And did he say anything about the bags?

A. He said, "You can set them down." He said that he was glad to meet me.

Q. And just what did he do then? A. He says, "We are in the course of an investigation and we are questioning different people and we would like to question you."

Q. And did he question you? A. He started to question me, yes.

Q. And how long did he question you? A. He questioned me for a short while.

Q. And then what happened? A. He then said "Can I see your wallet?" I gave him my wallet and he looked through it, took out things. Then he went through my pockets.

Q. Did he search you? A. Yes, sir, he searched me.

Q. And did he give you back your wallet?
A. After he had taken some things, he did.

Q. And then what happened? A. Then he said "I would like you and another fellow to go around with my men and have some witnesses view you; and if you are not identified you will be allowed to return to Brooklyn immediately."

Q. Now, this other fellow was Culombe? A. Yes, sir.

Q. And when did you see him at the barracks?
A. I didn't see him until they brought me out and put me in a car to take me to be viewed by somebody.

Q. And who was with you in the car - oh, before that, did you leave your packages with Lieutenant Rome or did you take them with you? A. He told me that I could take them with me so that if nobody identified me I would be able to go to Brooklyn immediately.

Q. And you took the packages in your arm and went out? A. Yes, sir.

Q. With these other officers? A. Yes, sir.

Q. Now, who were the other officers? A. Officer Moran, Officer Griffin and Sergeant Paige.

Q. And where did you go? A. Went to the rear of the State Police Barracks downstairs, got into a state police cruiser. Culombe and I were sitting in the back, the rear of the cruiser, with Officer Moran sitting next to Culombe. Officer Griffin was driving and Sergeant Paige was sitting next to Officer Griffin.

Q. Then where did you drive to? A. We drove to Coventry.

Q. And did you stop in Coventry? A. Yes.

Q. And what happened there? A. We were brought into a store and told to make believe that we wanted to buy something, and there was different people in there, some policemen that I don't know who they were.

Q. Then did you leave the store and go to the car? A. Yes.

Q. And what happened in the car, if anything? A. Culombe and I had a short drink of whiskey, and then -

Q. Who was in the car when you had the drink of whiskey? A. Officer Griffin.

Q. Did he see you drinking the whiskey?

MR. BILL: Objection.

THE COURT: Sustained.

A. Officer Griffin saw us drink the whiskey -

THE COURT: The answer may go out.

Q. Don't answer the questions when the judge sustains the objection. Officer Griffin was sitting there in the car when you were drinking the whiskey? A. Behind the steering wheel.

Q. Behind the steering wheel? Did you ask him if you could drink? A. I told him I was dry, and I had the whiskey and soda with me. He says "Go ahead and drink some."

Q. So you did? A. Yes, sir.

Q. Now, after a while did Lieutenant Paige come out of the store - I mean Sergeant Paige? A. Sergeant Paige and some people came out of the store, yes.

Q. And you later left the store, left Coventry?
A. After they had put us in front of some kind of pumps, or something.

MR. BILL: May I have that answer?

THE COURT: Yes, read it, Mr. Burke.

(Last answer read by reporter)

Q. Then you were permitted to go into the car?
A. Yes, sir.

Q. Then where did you go? A. To Rocky Hill.

Q. And what happened at Rocky Hill? A. We drove to a package store.

Q. What happened at the package store? A. Well, after some activity around there by different police officers they told us to go in and make out as if we wanted to buy some whiskey.

Q. Did you do that? A. Yes.

Q. And then did you leave the store after a while?
A. Yes, and returned to the cruiser.

Q. And what happened in the cruiser? A. We finished the whiskey that was in the bottle.

Q. Who was in the cruiser at that time? A. Officer Griffin.

Q. Now, was Sergeant Paige in the package store? A. I believe that he was still in there, yes.

Q. And he eventually came out? A. Yes.

Q. And when he came out did you talk to him or did he talk to you? A. I believe that they talked something about "Shall we go for a bite to eat before we return to the barracks?"

Q. And did Sergeant Paige say anything about the liquor? A. Not right then, no.

Q. Then you left the package store and where did you go? A. Went to a diner. I believe that it is in Wethersfield somewhere.

Q. And what happened there? A. We had -

Q. Who was driving the car when you reached the diner? A. Officer Griffin was driving all during that trip.

Q. And Sergeant Paige was in the front seat? A. And Officer Moran in the rear.

Q. Now, when you arrived at the diner did you throw something away? A. I asked -

MR. BILL: Well, Your Honor, I think that he shouldn't lead the witness. I object to the question.

THE COURT: Well, I am going to permit it. Answer the question, if you will.

A. Yes.

Q. What? A. The whiskey bottle and the soda bottle.

Q. Did you throw them away? A. I had an officer throw them away.

Q. Was Sergeant Paige there at that time? A. He saw the officer throw it away.

Q. Did he say anything?

MR. BILL: I move that that be stricken, Your Honor.

MR. BURKE: I claim it, Your Honor.

MR. BILL: What somebody saw.

THE COURT: I will allow it to stand. Go ahead, Mr. Burke.

Q. Did Sergeant Paige say anything? A. He says "What did you do, drink all the whiskey you had?"

Q. Did you answer that? A. I said "Well, what else is it for?"

Q. And after the officer threw the whiskey in the rubbish barrel you all went in and ate? A. Yes.

Q. And after you ate did you return to the barracks? A. Yes.

Q. And about what time did you return, if you can recall? A. I would say that it was about six o'clock.

Q. About six o'clock? Now, when you returned to the barracks who did you see, if anybody? A. I saw Lieutenant Rome upstairs in his office.

Q. And was Lieutenant Rome alone when you saw him? A. Yes, he was alone when I first come up there, yes.

Q. And what happened? A. Well, he started to question me about different things.

Q. An how long did the questioning continue?

A. On and off, he was going in and out of the office at times. It continued until ten or eleven at night.

Q. Now, during this questioning, he was questioning you about crimes, was he, different crimes? A. Yes.

Q. And did he - did you at any time ask Lieutenant Rome to call your lawyer? A. Towards the end of it, yes, sir.

Q. And what did he say to that? A. He said "You don't need a lawyer now. Later."

Q. And did you ask to get in touch with any friends or relatives that night? A. No.

Q. All right. Now, around ten or eleven o'clock you say that the questioning ceased. Then what happened? A. Well, for a minute there I was assuming that he was going to let me go back to Brooklyn.

Q. Had he told you that? A. He had told me earlier in the day that as soon as we returned if nobody had identified me I would be let go.

Q. So it comes now eleven or twelve o'clock at night and the questioning had ceased, and what did Lieutenant Rome do then, or say then? A. Well, that was about the time also that I asked for the lawyer, and then he went and talked with Sergeant Paige and the next thing I was led downstairs and locked up.

Q. Now, at that time did Lieutenant Rome tell you that you were under arrest? A. No, sir.

Q. Did Lieutenant Rome ever tell you Saturday, Sunday or Monday that you were under arrest? A. No, sir.

Q. Now, as to this liquor you had, was it a full bottle, or an empty bottle, or half empty, or what? A. It was practically full.

Q. Did anybody else drink out of it besides you and Culombe - I mean in the car? A. Not in the car, no, sir.

Q. Now, you were taken downstairs and locked in the cell? A. Yes, sir.

Q. And as I recall it, you said that Lieutenant Rome did not tell you you were under arrest? A. No, sir, he didn't.

Q. Who took you down and locked you up?
A. Sergeant Paige.

Q. Where is this cell, or what kind of a cell is it?
A. It is down in the basement and it has two iron bunks, one blanket, one sink with a button that unless you hold it with your hand you can't keep the water running.

Q. Was there any stopper in the sink? A. No stopper - and a toilet.

Q. Now, on the bunks, was there a mattress?
A. No, sir.

Q. One blanket you say? A. Yes, sir.

Q. And was it cold or hot in that cell? A. It was cold in that cell.

Q. You say it had a sink with a push button arrangement to stop the water? A. Yes.

Q. And when you took your finger from the button, did the water continue on or did it stop? A. It stopped.

Q. Was there any stopper in the sink to permit the water to be held there? A. No, sir

Q. Were you able to use that sink to wash yourself or clean up? A. No, sir, there was no soap or towel or nothing - or anything - and I couldn't have washed up holding one hand on the button anyway.

Q. You slept in the cell that night? A. I attempted to.

Q. Were you able to undress and go to sleep?
A. No, sir, it was too cold to go to sleep.

Q. You had to sleep in your clothes? A. Yes, sir.

Q. Did you sleep at all that night? A. I slept some, yes. - not very much.

Q. You didn't sleep very much? A. No, sir.

Q. Now, at what time in the morning were you awakened and by whom? A. I wasn't awakened by anybody - I was awake.

Q. And by that time were you dirty or clean?
A. Well, I was feeling dirty.

Q. And had you had an opportunity to wash at all?
A. No, sir.

Q. You say that the cell was cold and you slept in your clothes. By morning were you cold and hungry?

MR. BILL: Now, Your Honor, I have sat here and listened to a lot of leading questions, and it is time he let him tell his story.

THE COURT: Do you object?

MR. BILL: I object.

THE COURT: I think you had better —

Q. Tell me just how you felt in the morning - the first part of Sunday morning. A. Well, I got out of the bunk there quite early and was wondering what was [illegible] on and was wondering if I was going to get anything [illegible]eat. Some time later in the morning somebody - two people came in - I have no idea who they were - and I don't know to this day who they are - and asked me if

I wanted a sandwich and a cup of coffee, and I said, "Yes", and I would say they brought a sandwich and a cup of coffee back to me about ten in the morning.

Q. Now, what time that morning did you see Lieutenant Rome, if you saw him at all? A. I saw him shortly after I received the sandwich just for a minute downstairs.

Q. Did he have anything to say at that time?
A. He just says, "How are you doing," to me.

Q. Did you see him later? A. I saw him around noon or a little after.

Q. Now, on Sunday morning when he said, "How are you doing," did you tell him about the conditions in the cell?

MR. BILL: I object, Your Honor.

THE COURT: It is leading.

Q. I will rephrase it.

MR. BILL: Well, it is in there now.

THE COURT: It is leading.

MR. BURKE: I have been listening to leading question all week.

THE COURT: I understand you have. It is leading. I think you had better ask direct questions at this time.

Q. What did Lieutenant Rome have to say, if he said anything, besides, "How are you doing?" A. He said he would see me later.

Q. And at that time did you or were you able to tell him the condition of the cell? A. I told it to him in the afternoon.

Q. And what did he say about it when you told him?
A. He says he would see what he could do.

Q. Did he do anything? A. Not all of the time I was there.

Q. Now, you saw Lieutenant Rome again in the afternoon? A. Yes.

Q. Where? A. Upstairs.

Q. And what happened then - more questioning? A. At one time during the afternoon I was brought in to some kind of a lounge room and told to walk around in front of some people - different people - and then I was questioned by Lieutenant Rome later.

Q. How long did the questioning continue? A. I was questioned on and off, sometime by Lieutenant Rome, and a little bit by Sergeant Paige or different police officers that were around different places there until that evening.

Q. About what time that evening? A. Until they brought me out to get something to eat at a restaurant.

Q. Now, what time would you say that was to your best recollection? A. I would say about seven o'clock.

Q. Now, from in the morning when you were given a sandwich to seven o'clock at night were you furnished with any food at all? A. No, sir.

Q. Now during Sunday, up until that hour on Sunday night were you furnished with any soap or towels or water with which to wash? A. No, sir.

Q. You say you were taken out to get something to eat - by whom? A. By Lieutenant Rome and County Detective Matus.

Q. And where did you go? A. To a restaurant near the corner of Park and Washington Street.

Q. And while you were there at the restaurant did Lieutenant Rome question you there too? A. Well, he was questioning me.

Q. What did he say? A. He was talking about different crimes and what pressure the State Police were under because of the people of the State of Connecticut, and he said that he believed I had something to do with it and he was going to prove it.

Q. Did you answer that? A. I told him it was his job to prove anything that he could.

Q. Now, how long did you stay in the restaurant?
A. About an hour, I guess.

Q. And then where did you go? A. Returned to the barracks. A. There was more questioning by Lieutenant Rome.

Q. And how late did the questioning continue?
A. Ot least until twelve o'clock.

Q. Now, during Sunday and on Saturday afternoon and night did Lieutenant Rome mention your mother?
A. Saturday during part of the questioning he mentioned my mother, saying that it is too bad we have to bother the families of people we pick up. He said from what he understood I had a very nice mother, and also from what he understood I had a very nice wife.

Q. Now, on Sunday, you say Sunday night he questioned you again until about midnight? A. Yes, sir.

Q. Then what happened? A. Well, during the course of that questioning he brought up my mother quite frequently and said that he had had some men talking with her and how wonderful a person she was - and it is a shame she has to go through all this trouble and heartaches and having neighbors looking at her and things like that, and that night also I asked for an attorney and was told "later".

Q. And when you asked for a lawyer you asked for a specific one, did you? A. Saturday night I asked for Nathaniel Bergman.

Q. He had been your lawyer before? A. Yes, sir.

Q. And on Sunday you were again asking —

MR. BILL: I object to that.

THE COURT: I am going to allow it.

A. I asked - I just said, "How about letting me get a lawyer now?"

Q. And what did Lieutenant Rome say to that?
A. He says, "Later."

Q. And then you say you were again locked up at midnight in the cell downstairs? A. Yes, sir.

Q. Now, was the cell in the same condition it was Saturday night? A. Yes, sir.

Q. And was there any soap or towels there? A. No, sir.

Q. Was that sink so that you could use it? A. No, sir.

Q. What kind of bedclothes were on the bunk?
A. One blanket.

Q. Now, how did you sleep that night? A With my clothes on wrapped in a blanket.

Q. Now, did you sleep at all that night? A. Some.

Q. And in the morning when did you first see anybody? A. I don't know the exact time - it was about eight o'clock probably.

Q. And were you fed? A. I had about three pancakes - I believe they were.

Q. At about eight o'clock? A. Yes - and coffee.

Q. Now, at that time or anytime during Monday

did you again complain to Lieutenant Rome about the conditions of the cell? A. I complained everyday to him.

Q. What did he say? A. He pushed me off all the time about - "Later, later" - or said he would see what he could do.

Q. Now, by Monday morning had you had any opportunity to clean up since Saturday? A. No, sir.

Q. Had you shaven? A. No, sir.

Q. And you hadn't washed? A. No, sir.

Q. Now, on Monday morning did you see Lieutenant Rome? A. Monday morning I was brought to New Britain sometime during that morning.

Q. And who took you to New Britain? A. I was in a car - I know Lieutenant Rome was in that car.

Q. And where did you go in New Britain? A. We went to a Police Station there.

Q. And what happened there? A. I was led through or pushed - would be the right word - through a crowd - a threatening crowd - and brought to before a sort of a booking desk in the Police Station and asked questions by some policeman back of a desk; and then after being photographed and fingerprinted by somebody in the Police Station there, I was brought to a Detective Bureau and I was seated near an iron table or a metal table. Arthur Culombe was sitting at the other side of the metal table. Lieutenant Rome went into an office - I don't know whose office it was, but he went into an office. There was photographers in that Detective Bureau taking pictures of different angles. There was different people sitting around - I don't know who they were - I saw one of them on the stand here, but at that time I didn't know who they were - looking, and things like that.

Q. Now, did you talk to Lieutenant Rome down there?
A. Well, he was in an office there.

Q. Well, did anyone down there tell you you were under arrest? A. No, sir.

Q. Did anyone tell you down there you were charged with any particular crime or offense? A. They didn't tell me, no, sir.

Q. Did anyone down there tell you that you could get a lawyer? A. No, sir.

Q. Did anyone down there tell you you were entitled to counsel? A. No, sir.

Q. Did you ask for counsel on Monday? A. I had asked Lieutenant Rome the night before and later on Monday I did ask Lieutenant Rome, but down at the Police Station I didn't have a chance to ask for anything.

Q. Well, later on in the day you say you asked Lieutenant Rome to be permitted to see a lawyer?
A. Yes.

Q. What was his answer to that? A. It was about the same as the night before - later - yes, that is right - that night he says, "Later" - something like that.

Q. Now, after awhile you left the Police Station in New Britain? A. Yes.

Q. And where did you go? A. Well —

Q. And who took you? A. I know Lieutenant Rome was in the car in the front seat, and we drove toward Hartford and he told the driver to pull up into a gas station. When he pulled up into a gas station Lieutenant Rome asked me - he says, "Do you recognize this." I says, "No." He says, "You have never been here before?" I says "No, sir." He says, "Look around," so I looked around.

Q. Did you get out of the car? A. No, sir, I just kept looking around in the car. He told me to look at it closely and I did.

Q. And then what happened? A. Then he told the driver to continue on back to Hartford.

Q. And you got back to the barracks? A. Yes, sir.

Q. And then what happened - what time did you get back to the barracks? A. It was after noontime.

Q. Afternoon?

THE COURT: No, after noontime, he says.

THE WITNESS: After noontime.

Q. Was it early afternoon or late afternoon? A. I believe it was early afternoon. I believe we went into a dining room there.

Q. Well, after you left the dining room were you questioned further by Lieutenant Rome? A. Yes, I was brought upstairs and questioned further by Lieutenant Rome.

Q. And what did he question you about? A. He questioned me about murders that had been committed in Connecticut. He accused me of being guilty and telling me that I had gotten away with something once before and I wasn't going to get away with it now no matter what I did, and he said — I believe that is the day he came in and looked over his shoulder and says in a loud voice so that I would hear - he said, "You had better get a doctor for that fellow." And during the questioning I asked for an attorney and he says "You'll get an attorney when we are good and ready to let you get one."

Q. This was on Monday afternoon? A. No - oh, I was thinking of Tuesday. Monday he didn't come in.

Monday he didn't come in and say about getting a doctor for somebody.

Q. That happened on Tuesday? A. That happened on Tuesday.

Q. Now, on Monday did you ask him to permit you to contact a lawyer? A. Yes, sir.

Q. And what was his answer? A. That day it was "Later."

Q. After he questioned you at what time did the questioning stop? A. I was questioned - most of those nights were very late, so it must have been at the earliest eleven o'clock.

Q. Well, on Monday night were you taken to the county jail? A. No, sir.

Q. Now, on Monday night after he finished questioning at night you were returned to your cell? A. Yes.

Q. In the barracks? A. Yes, sir.

Q. Now, what was the condition of the cell that night? A. The same as it had been since I had been put in there.

Q. Was there any soap, or water, or towels that you could use to wash? A. No, sir.

Q. And did the bed have any more bed clothes on it? A. No, sir.

Q. Had you asked Lieutenant Rome, or told him about the conditions in the cell? A. I showed him when I came in front of him, I said, "I look pretty nice, don't I?"

Q. What did he say to that? A. He said "What's the matter?" I said "Well, I can't wash or anything."

Q. What did he say? A. He says "We will take care of that."

Q. Did he take care of it? A. No, sir.

Q. Now, this Monday night about midnight you were put back into your cell? A. Yes.

Q. As a result of this cold cell and the dirt and the rest of it what effect did that have on you, if any?

A. Well, I was beginning to feel as if I was in some other country. I didn't know what was the matter. I had been told I could leave immediately on Saturday and I wasn't allowed to. I had asked for an attorney and I wasn't allowed to get one, and every time that I did ask for one I was put off with some excuse, and I begin to realize that there wasn't much sense in expecting anything.

Q. Now, on Tuesday morning - oh, did you sleep at all Monday night? A. Some yes, sir.

Q. Were you able to undress and sleep, or how did you sleep? A. I had to keep my clothes on to keep warm.

Q. So that on Tuesday morning about what time did you see somebody? A. It was about the same time as the day before.

Q. And were you fed then? A. Yes. I believe it was the same kind of a breakfast we had the day before, some kind of pancakes, or something.

Q. Then what happened? A. Then I was brought to New Britain through the same sort of crowds that were there the day before. Lieutenant Rome was in the car that I was in.

Q. Now, then, in the morning you saw Lieutenant Rome? A. Yes.

Q. In the morning had you - this was Tuesday morning. Had you any opportunity to wash or clean since Saturday? A. No, sir.

Q. And did Lieutenant Rome tell you where he was

going to take you? A. When they came to get me from the cell they says "Come on, your going to New Britain," and that's the first that I knew.

Q. And did you on Tuesday tell Lieutenant Rome about the conditions of your cell? A. Later on Tuesday, but at that moment I didn't know what was happening and I didn't mention it right then, no.

Q. All right. When you went to New Britain or before you went to the Court in New Britain, were you permitted to clean up at all? A. No, sir.

Q. Were you permitted to shave? A. No, sir.

Q. Did you have anything with which to do those things? A. No, sir.

Q. Then when you arrived in New Britain you went to Court? A. They brought us upstairs and -

Q. Were there lots of people on the street? A. We had to push through them.

Q. And whether or not you heard any threats against you and your safety? A. Yes, I did.

Q. What were they? A. To the effect that "You should get strung up. They should have killed you before." And one drunk came near me.

Q. Well, did the police who were with you say anything to you about this? A. Lieutenant Rome later told me that that is the way the people of Connecticut felt

Q. Did he say anything else? A. He says "So you can see what we are up against."

Q. Then you were brought into court and where were you placed? A. We were brought upstairs through crowds and put into some kind of a pen, in one part of the room was a pen with some kind of bars - screening in

front of it, and I had no idea what we were there for. All I could see was a line, a solid line in front of the screen, of people, policemen, and I don't know if there were any ordinary citizens there, and the crowd, the Court itself was packed and there were television people with hand cameras taking pictures, and there was newspaper photographers taking pictures all over the courtroom. You know, I could see the flashes, and they were trying to poke them into the screen there, and then after sitting there for a while I was brought to a room and my mother and sister were there.

Q. Now, prior to that were there any proceedings that you know of? Do you know whether or not the judge came into the court? A. There was too much noise and confusion for me to know what went on in the court.

Q. Well, were you addressed by the Court at all, by the judge? A. No, sir.

Q. Did you talk with the prosecutor at all? A. No, sir.

Q. Did you hear what was going on? A. No, sir.

Q. Were you asked to plead to any offense? A. No, sir.

Q. Were you asked about, - or did you hear anybody asking about a continuance of the matter? A. No, sir.

Q. Well, did you hear anything of what went on there, so-called court proceedings? A. I only heard noise of people, commotion in the courtroom.

Q. Then after a while you were taken you say, to a room where your mother and sister was? A. Yes.

Q. And who was there with them? A. Lieutenant Rome.

Q. And what did Lieutenant Rome have to say to them? A. When I first came in, my sister and my mother told me that they hoped I were not mixed up in anything, and I told them "I am not mixed up in anything. Don't worry." Then my mother looked at Lieutenant Rome and asked him "Don't you think that we should get him an attorney?" Lieutenant Rome - at the time that she was asking this he was telling somebody to move me out again, and he replied to my mother "He is only being investigated. He does not need an attorney."

Q. Then you were moved out of the room? A. Yes.

Q. And was that all the conversation that you recall that took place in that room? A. That's all I said in that room, because I was - I didn't know what was going on there anyway, I was under a strain.

Q. Now, at that time you were still dirty, were you, and unshaven? A. Yes.

Q. Your clothes, you had slept in them three nights already then, hadn't you? A. Yes, sir.

Q. Now, after you were taken from that room where were you taken to? A. I was - I believe I was put back in the cage for a short while and then we left in the cars that we came in and brought back to Hartford Station Police Barracks

Q While you were in court in New Britain did you at any time know what the proceedings were or what was going on? A. No, sir.

Q. And were you told by anybody or asked by anybody to make any kind of a plea, any kind of a statement, or agree to any kind of a continuance? A. No, sir.

Q. Were you told by anybody the amount of a bond, if any was set? A. No, sir.

Q. You were just hustled out of the place by the police, back to the barracks?

MR. BILL: Objection on this characterization.

THE COURT: I will sustain it on the use of the word "hustled".

Q. You were taken out of the court back to the barracks, in Hartford? A. Yes, sir.

Q. On the way back to Hartford did Lieutenant Rome or anyone else tell you what went on down there or what had happened? A. He didn't tell me anything about the court there.

Q. Did Lieutenant Rome or anyone else tell you the amount of the bond that had been set? A. I don't believe I know.

Q. Did Lieutenant Rome tell you, or any other court official, or anybody else in authority tell you that you were under bond, or could obtain a bond for release?
A. No, sir.

Q. You were just taken back to the barracks?
A. Yes, sir.

Q. And locked up again alone? A. I was questioned that afternoon some more.

Q. And who questioned you? A. Rome, Lieutenant Rome, part of the time.

Q. And he questioned you until about what time?
A. Until about 7:00 or 7:30 that night.

Q. And was that the night that you were taken to the jail? A. Yes, sir.

Q. Now, before you testified that on Tuesday Lieutenant Rome came into the room and made some statement about getting a doctor. What was that all abou.

A. Well, I was sitting near his desk with some other police officers in the room, just sitting around there, and he was in another room off the hallway, and I heard some kind of a racket and then he come in near the doorway and looked back and said "You'd better get a doctor for that other fellow," and then he come in.

Q. Did he continue to question you then? A. He told me - I believe it was about that time that he told me that the other fellow was putting everything on me.

Q. Now, at that time did you ask Lieutenant Rome to permit you to get a lawyer? A. Before he took me to the county jail that night I asked for an attorney, yes, sir.

Q. And what did he say? A. He said "When we get ready we will let you get an attorney."

Q. Then you were taken to the county jail? A. Yes, I believe that it was about eight o'clock, I guess. Seven or eight o'clock

Q. Now, after having been in that cold cell without anything to clean up with -

MR. BILL: Now; I object to this characte ization, Your Honor.

MR. BURKE: Well, that is the testimony, Your Honor.

THE COURT: I don't fancy objections in the middle of the question, because I can't determine at this stage whether it is admissible or not. Go ahead and finish the question, Mr. Burke.

Q. As a result of the conditions in your cell, as you have described, and your inability to reach a lawyer, what effect, if any, did that have on you as of Tuesday night? A. By Tuesday night, especially after seeing they say that my mother looked in the Prosecutor's office

and being told by Rome that she was being hurt, and that people were bothering her and that she was all upset, and every time I asked for an attorney I was put off in one way or the other, I was feeling like an animal that has never washed himself and I was beginning to feel so inferior, and I didn't know what was going on. I was beginning to feel I might as well give up, tell them anything they want, what am I going to do, stay here all my life?

THE COURT: I take it that he has answered your question, Mr. Burke. Go ahead.

Q. Now, you were placed in the county jail on Tuesday night? A. Yes, sir.

Q. And Wednesday morning were you still in the county jail? A. Yes, sir.

Q. And you remained in the county jail all day Wednesday? A. Yes, sir.

Q. And were you questioned at all on Wednesday? A. I was only fed on Wednesday.

MR. BILL: Excuse me, I didn't get the answer.

THE COURT: "I was only fed on Wednesday." Go ahead, Mr. Burke.

Q. On Thursday morning did you again see Lieutenant Rome? A. Thursday morning an officer at the jail came and took me out of my cell, had me put on a jail jacket, brought me to the doorway that leads to the outer office, and Lieutenant Rome was there and they took me out and put me in a car.

Q. And where did they take you to? A. Took me up to the State Police barracks.

Q. Now, you were taken from your cell to the outer gate - the block gate - there at the jail? A. Yes.

Q. And then put into the hall? A. The door was open and there was Lieutenant Rome with some State Police, and they just took me.

Q. They took you to the barracks? A. Yes.

Q. And did you tell them you desired to go with them? A. I wasn't asked anything.

Q. Did you have any choice as to whether you would go or stay at the County Jail?

MR. BILL: Objection.

MR. BURKE: I claim it, Your Honor.

THE COURT: He is going to determine whether he had a choice or not in that question?

MR. BURKE: Yes Your Honor.

THE COURT: I will allow it. Answer the question if you can.

Q. Did you have any choice to stay at the County Jail and not go with Rome and the other fellows? A. Not that I could see.

Q. So that you were then taken to the Police Barracks? A. Yes.

Q. And what happened over there? A. At the police barracks I was brought into a room and shortly after they brought Arthur Culombe into that room and Lieutenant Rome told Culombe to tell me what he had told them.

Q. Now, prior to this had you stopped anywhere from the jail to the barracks? A. They stopped in front of a newspaper building and Lieutenant Rome ran up and got a paper and got back into the car and he flashed the paper in front of me.

Q. Did he give you the paper? A. Then he gave it to me after he flashed it.

Q. And what did the paper say - the headline? A. The headline said something like "Culombe confesses," or something like that.

Q. And then you continued to the barracks? A. Yes, sir.

Q. And at the barracks did Lieutenant Rome question you before you saw Culombe? A. I am not positive about that.

Q. Then when you arrived at the barracks at sometime Culombe was brought in? A. Yes.

Q. Where you were? A. Yes, Culombe was brought in.

Q. And then Lieutenant Rome told Culombe to tell you what he had told them - is that what happened? A. Yes.

Q. All right, then what happened? A. Culombe started to say things and would hesitate, and Lieutenant Rome would furnish the details he was hesitating on.

Q. Then what did you say, if anything? A. After Culombe had talked to the satisfaction of Lieutenant Rome, I asked Culombe what about when they kicked you and choked you, and Lieutenant Rome told him, he says, "You know we didn't do anything like that," and naturally at that time, Arthur Culombe says, "No, sir."

MR. BILL: I move that "to the satisfaction of Rome" go out and also that last part.

THE COURT: I suppose technically it shouldn't be in there. I will strike out "to the satisfaction of Rome," and what was the other one?

MR. BILL: And the other was "naturally."

THE COURT: I will allow that to stand. That is a matter of inference, but the other part may go out. Go ahead, Mr. Burke.

Q. Had Culombe told you anything before about the striking or choking that Rome did? A. Yes, he did.

Q. What did he say? A. He told me - he said that Rome tries to act like a nice guy but he ain't as nice as he says he is or acts, because tonight he kicked me. I says, "Why don't you tell him you want a lawyer?" and he says, "I do, but he never lets me get one."

Then on another night - I believe this was Tuesday - Culombe was very upset and told me downstairs in the cell block "I am demanding to have them bring me to the County Jail." He said, "They had me by the neck tonight, Rome did, and was shaking me and swearing at me," - "and they had better take me out of here." I says, "Why don't you keep asking for a lawyer?" and he says, "I do but I don't get anywhere."

MR. McDONOUGH: May I have that last question and answer read?

THE COURT: Read it, Mr. MacGlashan.

(The reporter read the last question and answer.)

THE COURT: Go ahead, Mr. Burke.

Q. Now, after Culombe was brought in and made these statements you say, did you make any statement or say anything in answer?

A. I told him —

Q. You told who, Rome? A. I thought you were talking —

Q. Let me get it straight. You were in the barracks

and Rome brought in Culombe and Culombe made some statements. Now I want to know if you said anything in answer to those statements or did you remain silent or what?

THE COURT: You mean in addition to what he just said - what he said to him when he told him he was choked - in addition to that?

MR. BURKE: In addition to that, yes.

THE COURT: All right.

A. I told him I didn't know what he was talking about.

THE COURT: No, he didn't. Go ahead, Mr. Burke.

Q. Then what happened after that - was Culombe taken from the room? A. Yes.

Q. And did Rome remain there or did he go out or what? A. It was - I think it was shortly after that that I was brought over here.

Q. Brought over to this Court? A. Yes.

Q. And you were presented before Judge Bordon? A. Yes.

Q. Now, when you were presented before Judge Bordon did you tell the Court about your request to be permitted to clean up? A. I made them aware of it in complaining to Lieutenant Rome.

Q. I want to show you State's Exhibit CC. It might refresh your recollection a little.

MR. BILL: I object, Your Honor, unless he can show he needs to be refreshed.

THE COURT: Well, I think I will permit it. Go ahead.

A. Well, some of the things that are here I didn't

hear because of the condition I was mentally - I didn't hear a lot of things that went on here.

THE COURT: All right, go ahead, Mr. Burke.

Q. What condition were you in mentally at that time? A. I was in a defeated condition.

Q. And what was the cause of that? A. Well, hearing all this talk about my mother being bothered or going to be continued to be bothered because of my refusal to admit something I didn't do, and the blocking of every effort I made to get a lawyer, to get cleaned up, I come to the conclusion by that time that there was no sense in asking for anything, and the main thing I had in my mind when I got into this Court was could I please get cleaned up. I wasn't even allowed to wash up when I went to the jail in between the time I left the State Police the day before.

Q. Now, while you were in this court you also asked for a lawyer, did you not? A. Yes, sir.

Q. If one could be assigned to you immediately?
A. Yes, sir.

Q. Now, after you left the Court where were you taken? A. I was taken across the street and put in a cell in the State Police barracks downstairs.

Q. And how long did you remain there? A. I remained there - it was I believe at least an hour.

Q. And then what happened? A. I went - while I was there there was Detective Matus and this other officer -- different other officers pounding at me - "You know they got you - why don't you confess?"

Q. Wait a minute. You were in the cell and were locked up for about an hour? A. Yes.

Q. And were you taken out of the cell or did they question you in the cell? A. Detective Matus was standing outside the cell and at different times some other policemen - I don't know who - I would know them if I saw them - would sit there and take his place and keep trying to show me why I should confess.

Q. And what did they say? A. They would say, "The other fellow is putting everything on you." Quite a bit of what they were saying was "Look at your mother - what it is doing to her," and "What about your wife? You are going to get it anyway - why don't you make it easier on them?"

Q. And this kept up for about how long did you say? A. I would say for about an hour.

Q. And had you been given an opportunity at that time to wash and clean up? A. Sarcastically I was asked if I wanted to use an electric razor or an ordinary razor; did I want a shower - by different officers.

Q. And were you permitted to have any of those things? A. No, sir.

Q. And then you say these officers, including Matus, who was sitting out in front of your cell, were talking at you through the bars? A. Yes.

Q. And saying what you just testified to, and that went on for about an hour? A. Yes.

THE COURT: I think we will stop now. The accused may be escorted from the courtroom.

Short recess, Sheriff.

(Recess at 11:30 A.M.)

JUNE 14th, 1957 - 11:45 A.M.

THE COURT: Bring up the accused, Sheriff.

(Accused present)

(Jury and alternates not present)

THE COURT: Do you want Mr. Taborsky on the stand Mr. Burke?

MR. BURKE: Yes, Your Honor.

THE COURT: All right, sit right down. You may proceed, Mr. Burke.

JOSEPH LOUIS TABORSKY, on the witness stand.

DIRECT EXAMINATION BY MR. BURKE: (RESUMED)

Q. I think that we were talking prior to recess about you were taken from this court, put in a cell in the barracks and there were officers around the cell talking to you through the bars? A. Yes.

Q. Now, I think that you also testified to the last question that you were there in that cell for about an hour? A. I believe so.

Q. Now, will you tell me what the officers were saying to you? A. They were impressing upon me suffering of my mother and the trouble that she was being put through, questioned by officers, people bothering her, and why didn't I confess so that she would be let alone.

Q. And is this what they were saying to you? Can you recall what they were saying, the words? A. They said "Come on, your mother has gone through enough for you. Why don't you confess, get it over with. You know we got you," and things like that.

Q. And at that point had you had an opportunity to clean up? A. No, sir.

Q. Had you had - had you seen a lawyer up to then? A. No, sir.

Q. Now, you said that they were talking to you for about an hour, telling you to confess and stop your mother's suffering? A. Yes, sir.

Q. After that hour went by, then what happened? A. Sometime while I was down there attorney Nathaniel Bergman came down and he told me that he was too busy, or something, and he couldn't take my case.

Q. And did he stay with you for a while, or did he leave, or what? A. He was there for about three minutes and he left.

Q. Now, after he left did the police - were there any police at your cell at that time? A. They were still around there, yes.

Q. Now, whether or not they were saying anything to you or talking to you after Mr. Bergman left? A. They says "You see what you are up against. Your lawyer won't take your case and nobody else is going to take your case, either."

Q. Now, after Mr. Bergman left and you had heard the policewoman talking about your mother, and Mr. Bergman couldn't take your case, you were still unwashed, I understand, what effect did that have on you, if any? A. I felt like I was just sinking. I don't know what was going on. My attorney tells me he can't take my case because he is busy, which I believe, and these officers are making me believe that he wouldn't take my case because nobody else would take my case, and they were telling me about my mother's suffering, and they were searching the house and questioning her and questioning friends and relatives and telling me if I don't confess it isn't going to stop, it is going to continue, and I felt that I might as well tell them anything that they want to know if it is going to stop them from bothering my mother.

Q. Now, after that then you were taken from the

cell, were you? A. Yes, I believe after that I was taken to the county jail.

Q. And about that time you were pretty despondent and dejected?

MR. BILL: Objection, Your Honor.

MR. BURKE: All right, Your Honor, I will ask him -

Q. Just what condition were you in mentally?
A. Mentally I don't think I had my mentality by then.

Q. So in this condition you were taken to the county jail? A. Yes.

Q. And about what time was that, if you can recall?
A. That was sometime in the afternoon. That day I wasn't - I couldn't observe too much that night.

Q. Why couldn't you observe much? A. After all, this claiming I am making my mother suffer, and not giving me things I want that I thought that I should have, lying to me and telling me I could have a lawyer later, and this and that, when I knew I should be able to have one then, never being told I was under arrest before, there was no sense in asking anybody for anything any more. You ask and they get sarcastic. You want a shower, you want to shave. I think the next day I'd have asked them I wanted to go to New York on an aeroplane.

Q. In this condition you were taken to the county jail? A. Yes.

Q. And you were locked up there? A. Yes.

Q. And were you questioned at the jail or on the way to the jail? A. I don't remember. At that time I wasn't in very good shape to remember just what went on there.

Q. You weren't in good shape to remember what

happened? You will have to answer, Joseph, because it has - A. No, sir, I wasn't.

Q. On Friday - you remained in the jail Thursday night? A. Yes.

Q. And on Friday morning were you taken from the jail again, do you recall? A. I believe I stayed in the jail during that day.

Q. And you were locked in a cell by yourself?
A. Yes, sir.

Q. And did you have any opportunity to talk to anybody all day Friday? A. No, sir.

Q. You just stayed in your cell, thinking? A. Yes, sir.

Q. Now, by late afternoon on Friday - strike that - you say you were in your cell, thinking, Friday about what had been going on? A. Yes, sir.

Q. By late afternoon Friday what was you condition? A. My condition was by that time that anybody could do anything they wanted with me. Anybody. I didn't care what happened. Any time I asked for something reasonable, that I thought was reasonable, I was conned around about it.

Any time in between different questioning I was told my mother was suffering because of me, that she was going to continue suffering because of me until I confessed to something I hadn't done, and I was told that I was going to get washed up and never got washed up, was dirty all that time that I was in the cell up until Friday.

Q. Well, was your feeling one of hopelessness?
A. It was even lower than that.

Q. Now, along about late in the afternoon you were taken from your cell in the county jail? A. Yes, sir.

Q. And do you recall who took you from your cell or from the jail? A. No, sir.

Q. Do you recall seeing Lieutenant Rome late Friday afternoon? A. I saw him, yes, sir.

Q. And where did you see him? A. I saw him in some room in the State Police barracks.

Q. Did Lieutenant Rome talk to you there? A. He told me that he was bringing my mother in for me to make my mother feel better.

Q. And did he tell you anything about her condition? A. He told me that she was in very bad shape and that I had better do something about it, what kind of a guy was I to let her get in that kind of shape.

Q. Did he tell you anything else about her? Did he tell you that he had talked to her about her beliefs? A. Yes, he did.

Q. What did he say? A. He said that he had talked with her and told her that he knows I am guilty, that I should be put out of the way, and he had convinced her and he wanted her now to come in and see me and get me straightened out.

Q. And did he tell you what he wanted you to do for her, if anything? A. He told me that if I was any kind of a man I would tell her what he wanted to know to make her feel better.

Q. Now, after this conversation did Lieutenant Rome leave the room you were in? A. He left.

Q. And in this room - who was in this room with you? A. To the rear and the right of me was Officer Reimer, sitting over in the courtroom over there.

Q. Were you handcuffed or not? A. I was handcuffed.

Q. Were you handcuffed to any furniture or just to yourself? A. To my best recollection I was handcuffed to the arm of a chair.

Q. Who else was in the room besides Officer Reimer and yourself, if you can recall? A. At that minute there I don't think anybody else was when Lieutenant Rome left.

Q. Did Lieutenant Rome return - wait a minute. Before Lieutenant Rome returned did Reimer have anything to say? A. He was telling me what bad shape my mother was in and saying "You got a fine mother and it is a shame to leave her in that shape." He said "Why don't you ease her? You don't want her to have a breakdown. You know that she is a sick woman."

Q. And then did Lieutenant Rome come back into the room? A. After a while Lieutenant Rome came into the room.

Q. And was your mother with him? A. Yes, she was.

Q. Now, tell His Honor just exactly what happened, how she looked, how you felt and the effect that it had on you, in as much detail as you can possibly remember. Do you want some water, Joseph?

A. Just thinking about it, the way she looked -

MR. BURKE: May we have a short recess, Your Honor?

THE COURT: Do you think that it is necessary?

THE WITNESS: She looked pitiful, that's all that I can say.

Q. All right. Now, then, what happened? Tell us what happened, take you time. Tell us in as much detail as you can. A. She came in, she says "Louis, why don't

you tell these men what you know?" She says "If you don't tell them the truth I don't want you for a son any more, I don't want to visit you any more. If you tell them what they want to know I'll still love you."

Q. Now, at that time was she crying? A. Yes, sir.

Q. Were you crying? A. Yes, sir.

Q. Now, seeing her in that pitiful condition and after listening to what Rome and these other policemen had said to you, and hearing her say that, what effect did that have on you? A. I would tell anything the officers wanted me to tell them.

Q. And did you? A. Anything they asked me I agreed was right.

Q. And is that when you stated, as Lieutenant Rome said here, you said that you were involved? A. Yes, sir.

Q. All right. Now, right after that - oh, right after that was your mother taken from that room? A. Yes, she was.

Q. And you remained in the room with Lieutenant Rome and Officer Reimer? A. Yes.

Q. Who else, if anybody? A. I think Captain Schwartz came in.

Q. Now, tell us, was O'Brien in there, too? Sergeant O'Brien, or Detective O'Brien? A. He probably was. I don't know.

Q. Do you have a very clear picture of who was there and who was not there? A. No, sir.

Q. Now, what happened? Did they commence taking statements, asking you questions - Rome? A. Yes, sir.

Q. While this was going on you said that Officer Reimer was right behind you? A. Yes.

Q. And he was - was he saying anything or remaining quiet? A. I can remember from the time that my mother came into the room until she got done talking. Officer Reimer kept repeating in my ear "Tell everything, Joe. Make your mother feel better. Tell everything Joe. That's right. Your doing right, Joe. Tell evrything you know. Your making your mother feel better. That's right, Joe. Keep going, Joe. That's right Joe. That's right."

Q. He kept repeating that over and over in your ear? A. Yes, sir.

Q. After your mother had left they started again, did they start again to take statements or take a statement? A. There was questions, yes.

Q. Now, Lieutenant Rome was doing the questioning, was he? A. Yes, I believe that it was him.

Q. Now, tell me and the Court, how did he ask you these questions? What was the manner in which he asked them - I'll strike that. Lieutenant Rome testified, and so did Sergeant O'Brien, that they would ask you a question and you would give them an answer. Is that the way it went? A: I remember that I was asked "Did you do a certain thing?" I would say "Yes". "How was this done" or "Who did this?" And I would give them an answer that I thought they wanted and he would refresh me on what had been said during the recital of somebody else saying they had done something and wasn't it this way.

Q. He would explain to you how something happened at the time he asked the question? A. Yes.

Q. And then you would answer in accordance with that explanation - is that how it went? A. Yes.

Q. Now, while this was going on, Joseph, how did you feel in your mind and in your heart - how did you

feel when this questioning was going on? A. I felt I was doing what I was compelled to do to get my mother out from under this pressure they told me she was under and they showed me she was under by bringing her there and telling me the only way she could get out from under the pressure of being bothered by the police was to tell them what they wanted me to tell them.

Q. After this was all over were you taken out of that room to the jail? A. I guess I was.

Q. Now, eventually, anyway, you got back to the jail? A. Yes.

Q. And you remained there - when did you next see Lieutenant Rome? A. I think sometime the next day.

Q. Sometime when? A. I think sometime the next day.

Q. And what did he have to say then - if you recall - if you don't, say so? A. He says something about he wants to bring me around to re-enact some kind of crimes.

Q. I want to show you State's Exhibit DD for identification. Do you recall seeing that before? A. Well, I might have seen it - I wouldn't be able to recall it now.

Q. Well on the last page is a signature, is that your signature? A. It could be, I don't know.

Q. Have you any recollection of signing that - have you any recollection of signing that statement? A. I don't remember a paper like this, but I signed something. I don't know if that is it.

Q. Do you recall Lieutenant Rome sitting and reading that to you? A. He may have.

Q. You don't have a clear recollection of what went on at that time? A. No, sir.

Q. Let me ask you this - why don't you? A. Why don't I?

Q. Yes. A. I was just all - after the night before I was feeling how my mother is still going to love me, she is not going to desert me. As long as I made her feel better by saying I did things I didn't do. That is all I was thinking about - my mother is not going to desert me and she is going to be my mother and I didn't know half of what was going on after that.

Q. Have you no recollection then of Lieutenant Rome, as he says, reading this statement to you - this question and answer business - the one you have before you?

A. I don't know about this paper. I signed some things but I can't say it is this paper.

Q. Now then, after this you were brought into this court again, were you not, and arraigned and presented here and charged before Judge Bordon? I will refresh your recollection - it was the first day I saw you - do you recall that day when you were in this court before Judge Bordon? A. I think I was - I don't know what day that was.

Q. Whatever day it was, were you at that time still under this - the effects of this condition that you were in before? A. Yes, sir.

Q. And do you recall talking to me or my talking to you downstairs in the cell that day? A. Yes, sir.

Q. And in court that day you told Judge Bordon, did you not, that you didn't want any lawyer? A. Yes, I did.

Q. And why did you say that, Joseph? A. Because I wanted to die.

Q. And were you still under the effects of this same condition you were in after your mother saw you on that day? A. Yes, sir.

Q. Now, among the things which Lieutenant Rome said to you during these days of questioning, do you recall him saying anything to you about an insane asylum?

A. He told me during one of the periods of questioning - I believe it was on a Monday - that if I didn't confess that I was going to end up pacing the cell of an insane asylum.

Q. Now, from Saturday, when he started questioning you, after you were taken into custody, even up to the time you were presented here before Judge Bordon - the day that I saw you - was your condition something that came on all of a sudden, as you have described your condition, or was it something that built up gradually? A. It built up from the time they didn't allow me to go back to Brooklyn - what they led me to believe that I would be allowed to do - go back to Brooklyn Saturday evening.

Q. This helped to build up the condition you were in? A. Each day I got a more hopeless feeling as I asked for and not getting the things I asked for, lied to and blamed for things I didn't do; constant talk about my mother suffering and her and my relatives being investigated and bothered and people calling them up and threatening them and things like that.

Q. And the culmination or climax came when you saw your mother's condition yourself? A. Yes, sir.

MR. BURKE: Your witness.

CROSS EXAMINATION BY MR. BILL:

Q. What time did you go down to the Hartford County Jail on Tuesday? A. Tuesday? I would say about eight o'clock.

Q. Eight o'clock in the evening. And you were down at the Hartford County Jail from eight o'clock on Tuesday until Friday at about five o'clock, except once when

you appeared over here in court and you spent about an hour over at State Police Headquarters, isn't that right?
A. I don't understand the full question.

Q. I will withdraw it. You went down Tuesday night to the jail about eight o'clock? A. Yes.

Q. Were you taken out of the jail Wednesday?
A. Wednesday? No.

Q. You were not questioned Wednesday, were you?
A. No, sir.

Q. On Wednesday night, all day Wednesday or Wednesday night, is that correct? A. That is correct.

Q. Thursday morning, I think you testified that around about eight or nine o'clock Lieutenant Rome came and got you with some other officers, and that is the time they showed you the Hartford Courant and then took you to Police Headquarters? A. About that time. It might have been earlier.

Q. I won't quibble about the time. It was in the morning before you came into court? A. Yes.

Q. And finally you got over here to court? A. Yes.

Q. And then you were taken over to the State Police Headquarters and that is when you said some officers questioned you for about an hour, is that correct - this is Thursday after court? A. They weren't exactly questioning me, no.

Q. All right, they were present and you were present and there was some talk there, whatever you want to call it, is that right? A. Yes.

Q. And then you were taken back to the jail again, were you not? A. Yes.

Q. And about what time? A. Sometime in the afternoon.

Q. And you stayed there until Friday afternoon - late - and you were brought over and met your mother?
A. Yes.

Q. And you were not questioned or met by the police Officers from that Thursday afternoon when you were taken to the jail until you came back and met your mother late Friday afternoon, isn't that correct? A. May I have that question?

THE COURT: Read it, Mr. MacGlashan.

(The reporter read the question.)

A. No, it is not.

Q. Why not? A. I was questioned and talked to before I saw my mother Friday afternoon.

Q. Where, at the jail? A. No, sir.

Q. I am not talking about that. You said before I met my mother. Let us put it up until the time you left the jail to talk to your mother - what time was it you left the jail on Friday to talk to your mother?
A. Late afternoon.

Q. Five o'clock or five-thirty? A. It was probably about five.

Q. About five o'clock. All right. Now, then, I will ask the question again - the last part of it - from the time Thursday afternoon they took you to the jail after you had been to court and Police Headquarters, you were in jail from Thursday afternoon until Friday late in the afternoon at five o'clock, I think you said - around that - all that time, weren't you? A. Yes.

Q. And you were not questioned? A. No.

Q. So, I again ask you the first question I asked you - that from Tuesday night at eight o'clock when you went

down to the County Jail until about five o'clock on Friday afternoon, when you were taken out and later saw your mother, you were only out of the jail once, and that was Thursday morning when you appeared in court and later had an hour's conference with the Police across the street, is that correct?

MR. BURKE: I object to it. It isn't the testimony.

THE COURT: Even if it isn't the testimony, it is a fair question on cross examination. Perhaps I should hear you, Mr. Burke.

MR. BURKE: He testified he was taken from the jail to the barracks, questioned and then taken to the court.

THE COURT: I understand that is the testimony, but this is a fair question. The mere fact there is some testimony or other evidence doesn't make it inadmissible.

MR. BURKE: Exception.

THE COURT: Certainly.

Do you want the question?

THE WITNESS: Yes, sir.

THE COURT: Read it, Mr. MacGlashan.

(The reporter started to read the question.)

MR. BILL: I will withdraw it and I will put it in.

Q. From Tuesday night at eight o'clock until about five o'clock Friday afternoon you were taken from the jail once, and that was Thursday morning when you were interviewed at State Police Headquarters and brought to court, and then had an hour's conference later at State Police Headquarters; now, is that correct? A. It isn't fully correct.

Q. Will you correct it? A. I didn't have any hour's conference.

Q. What do you call it - you were with the police an hour after court, is that correct? A. I was with the police, yes.

Q. With that correction, can you answer the question? A. That is the only time I remember being brought from the jail between that time.

Q. Yes, and while you were at the jail you were never questioned between Tuesday night and Friday afternoon except what you have just described - after you had been taken out of the jail on Thursday - just during that interim, is that correct? A. Yes.

Q. On Thursday afternoon when you went back to the jail you had a shower and a shave and washed up, didn't you? A. Thursday afternoon? Is that what you are talking about?

Q. Yes. A. I wouldn't say I did, no - I am not sure.

Q. Well, were you ever given an opportunity at the jail between Tuesday night when you went down there and Friday night to wash up and shave? A. I believe - I believe it might have been Thursday night that I finally got shaved or it might have been Friday morning - I am not sure about that.

Q. It was Thursday afternoon around two o'clock, wasn't it? A. I can't place that.

Q. Well, you had been all bathed and shaved up long before you saw your mother that Friday afternoon, hadn't you - for sometime? A. Yes, I had been shaved and washed on the Court's orders, yes.

Q. Are you kicking, Taborsky, because over at the State Police Headquarters when you turned on that faucet and there was a button and you put your hand on it to wash - is that what you are kicking about?

MR. BURKE: I object to that - that isn't a fair question - "kicking."

Q. Are you complaining, Taborsky, about that situation - that you couldn't get water from the faucet because you had to press the button with one hand and it would only flow when you pressed the button - is that what you are complaining about?

MR. BURKE: I would object to that. That isn't the testimony.

THE COURT: Mr. Burke, this is cross examination. I will overrule the objection.

MR. BURKE: May I have an exception?

THE COURT: You certainly may. Will you answer the question? Do you want it read? Do you remember the question?

THE WITNESS: No, I don't remember it.

THE COURT: Read it, Mr. MacGlashan.

(The reporter read the question.)

A. That is a small part of what I was complaining about.

Q. That is one of the complaints? A. A small part of the complaints.

Q. Did you try pressing the faucet with one hand and cupping the other hand and getting some water in it and washing your face up - did you try that? A. I knew better.

Q. You mean you didn't do it? A. No, there were no towels.

Q. You didn't have any handkerchief or anything to wipe with? A. It was dirty.

Q. Did you talk with anybody but Lieutenant Rome about getting towels or soap? A. He was in charge.

Q. I am asking you - May that be stricken?

THE COURT: It may go out.

Q. I am asking you if you asked anybody else other than Lieutenant Rome? A. I asked Judge Bordon.

Q. I mean over there at State Police Headquarters? A. I didn't have a chance to, no, sir.

Q. You didn't have a chance to or you didn't, is that it? A. Yes, sir.

Q. And you were complaining because there wasn't a stopper in the bowl - is that what you were complaining about? A. That was encompassed in the full complaint, because without a stopper you couldn't leave any water in the sink to wash up with.

Q. And you never thought of cupping the water in your hands and washing up that way, did you? A. No, I never did.

Q. You never tried that before? A. I have tried it before, yes.

Q. You didn't try it over there, though? A. No.

Q. As a matter of fact, Sunday morning when you asked Lieutenant Rome about a blanket, he went into an empty cell next to yours and gave you another blanket, didn't he? A. No, sir.

Q. You deny that? A. Yes, sir.

Q. Now, this written statement here, State's Exhibit DD, for identification, did I understand you, Taborsky, to look at that writing and signature there and say that you don't know whether it is yours or not? Did you say that?
A. Yes, I said that.

Q. You look at it again. Isn't that your signature?
A. I wouldn't swear it was.

Q. Of course you know it is, don't you?

MR. BURKE: I object to this badgering of the witness, Your Honor. He got an answer.

MR. BILL: I am not badgering him at all.

THE COURT: "Badgering" is an unusual word. I will overrule the objection. He is entitled to ask him that?

MR. BURKE: May I have an exception?

THE COURT: Certainly.

Q. Did you at some time sign a statement concerning this New Britain affair? A. I signed a paper.

Q. You signed a number of papers, didn't you?
A. I might have.

Q. You don't remember? A. I am not sure what I signed.

Q. As a matter of fact, you signed those papers and this one, State's Exhibit DD for identification, on Sunday, didn't you, Sunday afternoon? You were brought over to State Police Headquarters and signed that paper, didn't you? Is that right? A. What Sunday are you talking about?

Q. The next Sunday after the meeting with your mother on Friday, the following Sunday, March 3rd?
A. It is possible.

Q. You say that you don't remember that? A. I say that it is possible. I answered your question.

Q. But you say that you don't remember it might have been, is that it? A. Could I hear the question again, Your Honor?

Q. I'll withdraw it. Don't you remember that you were taken from the jail to State Police headquarters on Sunday, March 3rd, by the police? A. Yes.

Q. And don't you remember that you signed a number of statements at State Police headquarters that afternoon? A. Well, I was probably signing anything that they put in front of me.

Q. Oh, that is what you were doing? They read them to you, didn't they? A. There was a lot of things said.

Q. I am not asking you that, Taborsky. I am asking you if they didn't read specifically this statement that I just showed you, State's Exhibit DD for identification?
A. I don't know.

Q. You don't know? But you did sign some papers over there that afternoon, didn't you? A. Yes.

Q. And this might have been one of them, is that it? A. It might have been.

Q. Now, you remember being over here in the Superior Court, in front of Judge Bordon, don't you, that Thursday morning? Don't you remember that?
A. Thursday morning, yes.

Q. And you took part in the proceedings, didn't you? When he asked you some questions you spoke up to him, didn't you? You had something to say that day, didn't you? A. Yes.

Q. Do you remember this, and I am reading now from State's Exhibit CC for identification:

"THE COURT: Now, Taborsky, I am passing an order. I am ordering the sheriff to release you in the custody of Commissioner Kelly for the purpose of further investigation of the case against you. In the course of the investigation made by the police you have all the rights that I

already indicated. You need make no statement. Anything that you do say or any statement that you do make may be used against you in the trial of the case against you, but you are not required to make any statement. In fact, I will admonish the police to use no force or make you no promises or do anything which will obtain a statement from you that is involuntary. If you wish to make any statement voluntarily you may do so. If you don't wish to do so you may keep quiet and say nothing and nobody can make you do anything or say anything, and I am sure that the police will observe all your rights. You will be treated, I am sure, properly and accorded all the rights the law entitles you."
Now, you remember that, don't you? A. Not as you say it, no, sir.

Q. You heard him tell you about your Constitutional rights, didn't you? A. No, sir. I didn't fully understand what was going on there.

Q. You didn't understand what was going on on Thursday? Why? A. Because of the treatment that I received across the street.

Q. Well, you hadn't been across the street since Tuesday night, and early that morning just before you came over here, isn't that true? A. That's true.

Q. Do you claim that there was pressure between Tuesday night and the time that you were over there in the court, in the court proceedings? A. Yes.

Q. You do? And do you claim that that pressure was such that you didn't understand what was going on over here? A. Yes.

Q. You spoke up and told the judge you hadn't been shaved or washed, didn't you? You knew that? A. Yes.

Q. And you talked about getting a lawyer, didn't you? A. Yes.

Q. But all the rest of the proceedings you didn't hear or understand. is that what you want us to understand now? A. That is what I want you to understand.

Q. You don't remember anything, Judge Bordon saying to you "You don't have to make any statement or say anything. You don't have to talk. You don't remember any of that? A. I remember some of the things the he said, yes.

Q. And you remember that, don't you? A. No, sir.

Q. Wasn't that important to you? A. Can I answer my own way?

THE COURT: You don't have to answer "yes" or "no". You can explain what you mean.

A. The most important thing at that time was getting a lawyer and washed up.

Q. You didn't care anything about statements or any Constitutional rights at all, is that correct? A. By that time I was in no condition to worry about it.

Q. Now, in the police court on Tuesday, down at New Britain you saw your mother, didn't you, and sister?
A. What date is that?

Q. Tuesday morning, at New Britain, at the police court? A. Yes.

Q. And you heard your mother ask Lieutenant Rome if he should get you a lawyer, didn't you? A. Yes.

Q. And he said that he didn't think that it was necessary at that time. Do you remember that? A. Something like that, he said.

Q. All right. And you said that you didn't want a lawyer, didn't you? A. No, sir.

Q. Are you sure of that, Taborsky? A. Yes, sir.

Q. Did you tell her then that you wanted a lawyer?
A. No, sir.

Q. What did you say? A. I told her that I didn't have anything to do with what they were trying to say I did, and there was nothing to worry about.

Q. But there was your mother, and you say that you wanted a lawyer and you had been asking for a lawyer, why didn't you say to her "Will you get me a lawyer?" To her and your sister? Did you do that? A. I had just been through a great —

Q. I am asking you if you did that? A. No.

MR. BURKE: If Your Honor please, I would think that he would let the witness answer the question.

THE COURT: The witness obviously was not going to answer the question and if he had let him answer it, as he should have done, I agree I would probably have to strike it out. Will you read the question, Mr. Burke?

(Last question read by reporter)

A. No.

Q. You never mentioned to your mother or your sister, either, when you were down there, that you wanted a lawyer and asked them to get a lawyer, did you?
A. I didn't have a chance.

Q. But you didn't do it, did you? A. No.

Q. You talked to your mother, didn't you? A. For one minute.

Q. Yes. And what was uppermost in your mind was your claim that you wanted a lawyer, so why didn't you say to her "Mother" or "Mom" or whatever you call her "Won't you get me a lawyer?" You didn't do that, did you?
A. I didn't have a chance.

Q. The police never laid a hand on you, did they? A. No, sir.

Q. They never struck you? A. No, sir.

Q. Never touched you, did they? A. No, sir.

Q. You told Lieutenant Rome that he was the only cop that you ever had any respect for, didn't you? A. I don't remember that.

Q. Will you say that you didn't say it? A. Yes.

Q. You did not say it? A. I'll say that I did not say it.

Q. That you did not say it?

MR. BURKE: Well, if Your Honor please, this is badgering and repetitious. Four times he went over it.

THE COURT: Overruled. I will allow it to stand.

MR. BURKE: May I have an exception?

THE COURT: You certainly may.

Q. Now, you say that there came a time that you wanted to die. When was that? Did you say that, just now? A. I said that up here.

Q. When was that? When did that feeling come over you, that you wanted to die? A. In superior court here the day that I said I didn't want a lawyer.

Q. The day that you said you didn't want any lawyer, and that was on Tuesday morning, March 5th, was it not? A. I believe so.

Q. And how long before that had you had this feeling that you wanted to die? A. When I realized that the only way I could keep my mother's love and be her son was to confess to something I didn't do.

Q. You thought that that was going to do it?

A. That's what I had been impressed with ever since I was picked up.

Q. You didn't believe that, did you? A. Yes, I did.

Q. And you think that has done that? Your confession?

MR. BURKE: May I have that question read, Your Honor.

THE COURT: Surely. Read it, Mr. Burke.

(Last question read by reporter)

MR. BURKE: The one before that.

(Second last question read by reporter)

MR. BURKE: It must be the one before that.

(Third last question read by reporter)

THE COURT: Now read the last question, Mr. Burke.

(Last question again read by reporter)

THE COURT: Will you answer that, if you can.

A. I don't know what the question means.

THE COURT: He says "I don't know what the question means." Reframe it.

Q. What did you expect - that is withdrawn. How did you think that it was going to help your mother if you confessed to a lot of crimes when you didn't do them?

A. I felt that she had been convinced by officials that I was guilty and that unless I confessed I was going to get electrocuted and there would be no hope for me.

MR. BILL: May I have that answer, please?

THE COURT: Yes. Read it, Mr. Burke.

(Witness's last answer read by reporter)

Q. You thought that your mother had been convinced that you were guilty, is that correct? A. That's right.

Q. And then from there on I don't understand what you meant. How would your confession help out in any way? A. I believed at that time that the officials had convinced her that I was guilty of some crimes, and her being a religious woman, believing that, believing them saying that I was guilty, if I didn't confess to something she believed I was guilty of through her telling her that, I wouldn't go to heaven.

Q. So you want to tell us that you told - that you admitted and confessed to all these murders —

MR. BURKE: I will object to this, Your Honor. There's only one case involved here and he should restrict these questions to this case.

THE COURT: But the witness is the one that made it plural. I will allow the question and then we'll hear you if you want to object.

Read what you have, Mr. MacGlashan.

(The reporter read the question.)

Q. — just because your mother was convinced you had done them and you would make her feel better if you should confess to them even though you hadn't done it?

MR. BURKE: I will object to that, Your Honor.

THE COURT: Sustained.

MR. BURKE: Exception. It was sustained?

THE COURT: You may have the exception - you may be right.

Q. Then you thought that confession to all these murders that you didn't do was in some way going to help your mother, is that it?

MR. BURKE: Objection.

THE COURT: I sustain the objection on the use of the word "murders". The witness used the word "crimes".

MR. BILL: Crimes. I didn't understand that that was why you sustained it. I didn't mean to repeat it, had I known, Your Honor.

THE COURT: I am sure you wouldn't have, Mr. Bill.

Q. Then you felt, as I understand it that night, that by confessing to all these crimes, that that in someway would make your mother feel good or help her in someway, even though you didn't do it, is that correct? A. I was made to feel that way, yes, sir.

Q. You were made to feel that way? Who made you? A. The State Police.

Q. Did your mother make you feel that way?
A. Not realizing it, she was used to make me feel that way, yes.

Q. She was after you to tell the truth, wasn't she?
A. Yes, she was.

Q. And she kept saying, "Joe, tell me the truth.", didn't she? A. Yes.

Q. "Did you kill this one - did you kill that one" - that is what she said - naming some names, didn't she?
A. Not of her own accord if I can remember correctly.

Q. You are sure of that? A. I am pretty sure of it, yes.

Q. And that she would name some names of victims, didn't she? A. Yes.

Q. And she was asking you about those, wasn't she - different names? A. I can't fully remember everything that went on up there once my mother got in that room.

Q. Well, you know she kept saying, "Joe, tell the truth and I will still love you no matter what it is."?

A. I can remember that and I can remember her telling me if I didn't tell the truth as she understood it she wouldn't have me for a son anymore - she wouldn't visit me.

Q. And is that why you told these things - is that so?

MR. BURKE: May I have that question?

THE COURT: Read it, Mr. MacGlashan.

(The reporter read the question.)

THE COURT: Go ahead and answer if you can.

THE WITNESS: He just asked me is that why I told these things. I don't know what he means.

Q. That is why you came out and confessed to crimes? A. I was told to admit it.

Q. Anything they asked you? A. Yes.

Q. You were told by whom to admit anything they asked? A. I was under that impression.

Q. Told by whom? A. Lieutenant Rome and Officer Reimer kept telling me: "That's it - tell us what we want to hear. You will make your mother feel better - that's it, that's it," and so that is why I did it.

Q. But it was your mother that was doing all the talking? A. No, sir.

Q. Are you sure of that? A. Positive.

Q. Taborsky, you had a shower over at the jail on Wednesday, did you not? A. Not that I can remember.

Q. Will you say you didn't? A. Right at this minute, I will say no.

Q. You will say no? A. At this minute I will say I didn't.

Q. You made no complaint at all about the food over at the County Jail or at State Police Headquarters barracks, did you? A. Oh, yes.

Q. You have? A. Yes, sir.

Q. You haven't complained here at all, have you? Do you want to complain now about the food over there? A. Yes.

MR. BURKE: I object to this type of questioning - that there wasn't a complaint about the food now.

THE COUFT: I will tell you, Mr. Burke, I am going to sustain the objection on the ground that is hasn't been raised as one of the complaints of the accused, and strike the answer.

MR. BILL: Well, I was simply pointing out it had not been raised.

THE COURT: I understand, but if there has been an objection and there hasn't been any claim to that ecect, and I will sustain the objection and strike out the answer.

MR. BILL: I assume Your Honor has made note of the situation that he hasn't complained.

Q. When you were down in the New Britain Police Court that Tuesday morning, you said to your mother: "Never mind, don't worry, I am not involved in these things", didn't you? A. I told her something to that effect. I don't think I used those words.

Q. And didn't you follow that up by saying: "I don't need a lawyer because I am not involved in these things", or, "They have nothing on me?" A. No, sir, I didn't tell her anything like that.

Q. You didn't? A. No, sir.

Q. Looking again at State's Exhibit DD for identification, I ask you only about the signature. Will you look at the handwriting there - the words: "I have read the above statement on eight pages and state that it is true." Is that in your handwriting? A. I don't know.

Q. You don't know? A. No, sir.

Q. You have known how to write since you were in school - a little fellow - haven't you? A. Yes, I believe I have.

Q. And you are telling me you don't know it is your signature or whether that is your handwriting - is that what you are telling us? A. It is probably my handwriting, yes, but I am not going to swear to it.

Q. You are not going to swear? A. No, sir.

Q. I see. You think probably it is though, don't you? A. I would say it probably is.

MR. BILL: That is all.

THE COURT: Do you want to stop here?

MR. BURKE: That is all.

* * * * *

CHARLES BAIKAL, having been previously sworn was recalled and testified as follows:

THE COURT: You have been sworn. You may sit down.

DIRECT EXAMINATION BY MR. BILL:

Q. You are employed at the Hartford County Jail?
A. Yes, sir, I am.

Q. And have you brought the record book here with you? A. I have, sir.

Q. And whether or not in that record book that you have there is a record of the prisoners at the Hartford County Jail at the time that they are showered and given baths, each prisoner, and I am talking particularly about February 1957. A. In February 1957 our records show that Joseph Taborsky was given a bath -

Q. Well, that is my next question. What is the answer to my first question. Does that show the records?
A. I didn't quite understand.

Q. The records of the prisoners? A. We do have a record for prisoners taking baths.

Q. That is the book? A. Yes.

Q. Is that used in the ordinary course of your business up there as to when the prisoners take showers?
A. This is the log book. Everything is notated here.

Q. Have you an item on Joseph Taborsky in February 1957? A. Our records show that he had a bath on February 27th, 1957.

Q. Does it show it in that book? A. It shows it in this book, sir.

Q. And does it show who took him to the bath?
A. Yes, sir.

Q. Who? A. I did.

Q. Your name is there? A. My name is there.

Q. And do you remember the incident now, referring to the record? A. Yes, I do. I remember it.

MR. BILL: I offer this.

MR. BURKE: Is that the same log book? Do you have the entry? This is the same log book that you had up here yesterday, isn't it?

THE WITNESS: That's right.

MR. BURKE: Is this the one that you told the Court would cripple your operation up there if you didn't have the log book.

THE WITNESS: That's right. It is very important to us.

MR. BURKE: I certainly don't have any objection.

MR. BILL: Then I would like to have -

MR. BURKE: We read it off yesterday.

THE COURT: Yes, can we follow the same procedure?

MR. BURKE: I think so.

THE COURT: Mr. Bill may read into the record what the log book of the jail shows.

MR. BILL: I would like to have the witness follow me as I read it to be sure I am accurate. Where is it? I am reading from page 160 in this log book and stamped about five or six lines down is "February 27th, 1957", and the item is "2:00 P.M. Joseph Taborsky taken to shower room for bath by Baikal." Is that correct, Mr. Baikal?

THE WITNESS: That is correct.

MR. BILL: Your witness.

THE COURT: Any cross, Mr. Burke?

CROSS EXAMINATION BY MR. BURKE:

Q. Does it say anything in there, Mr. Baikal about a shave? A. No, I don't see any notation.

Q. Do you recall whether or not he was permitted to shave? A. On that date I don't think - I don't remember.

Q. You don't think that he was, do you? A. I don't think that he was.

Q. Now, your log book indicates that he was committed on February 26th, 1957? A. That is right, at eight p.m.

Q. At eight p.m. And I would like to read into - is that eight or eight-fifty? A. Well, eight fifty.

MR. BURKE: 8:50 p.m. and I would like to read this into the record, Your Honor.

MR. BILL: Let me see if first, will you, please?

MR. BURKE: Yes, sir.

MR. BILL: No objection.

MR. BURKE: I will read it with the witness so that it will be accurate. "8:50 p.m. Joseph Taborsky committed" - what is this "ADJ"?

THE WITNESS: Adjourned.

Q. Adjourned? A. A cell.

Q. What does adjourned mean, A cell?

Q. Adjourned is awaiting trial from the lower court. We call that adjourned.

Q. Awaiting trial for lower court? A. That's right.

Q. Then it says "Arthur Culombe committed. Adjourned, D." A. He was committed -

THE COURT: Keep your voice up.

A. Adjourned, and he was put in D cell.

Q. Then it says "Keep both above deadlock and separated. O'T." Who is O'T.? A. Officer O'Toole.

Q. Did you make this notation or did O'Toole make it? A. O'Toole made that notation.

Q. But you did make the one on page 160 under February 27th? A. No, sir, I did not make that notation, but Fred Apgar, the man on the desk made the notation, but I took Taborsky down for a bath. The man in charge at the desk makes all notations.

Q. I want to show you on February 28th, 1957, is that notation "8:30"? That's on page 162. Don't read it. On page 162 half way, three-quarters of the way down the page, in the log book, "February 28th, 1957. 8:30 a.m. Joseph Taborsky Cell A borrowed by state police, Sergeant Rome." Did you make that notation? A. No, sir, I didn't. The man on the desk made that notation.

Q. Now, with the exception of that one notation of the bath on the 27th there are no other notations of any baths or clean up, or anything, is there? A. You mean after the 27th?

Q. After or before? Between the 27th and the 23rd, let's say. A. No, sir, there is none before the 27th.

Q. And between the 27th and March 1st is there anything besides that one notation? A. March 1st -

THE COURT: Don't say it out loud. Just look.

A. On March 6th there is a notation.

Q. March 6th, but nothing up until then? A. I haven't seen anything, sir.

Q. If there isn't anything in there, then nothing did happen, is that about it? A. That's about it. Well - that's about it, I would say.

Q. Now, I show you a notation on page 162, February 28th, 1957 -

MR. BILL: This item is one about Arthur Culombe, Your Honor. Do you claim it, Mr. Burke?

MR. BURKE: Yes, I claim it.

MR. BILL: I object to that. That has nothing to do with this situation. We are trying the Taborsky proceedings before the March 1st confession.

THE COURT: What do you claim it for, Mr. Burke?

MR. BURKE: I claim it just to show, Your Honor, the entire picture here of what was going on with these men, first one, then the other, taken out, put back, in and out of there.

THE COURT: And this refers solely to Culombe?

MR. BURKE: This item does, yes, sir.

THE COURT: I will sustain the objection.

MR. BURKE: I believe that is all.

THE COURT: Anything further, Mr. Bill?

MR. McDONOUGH: May it please the Court, I desire to examine this witness. This is not a separate proceeding. This is a trial. Culombe is still on trial right now. I want to examine on a matter that Mr. Burke raised with this witness.

THE COURT: I will deny your -

MR. McDONOUGH: May I have an exception, please?

THE COURT: You certainly may.

MR. McDONOUGH: May that book be kept here, Your Honor?

MR. BILL: What the - I am sorry.

THE COURT: Well -

MR. McDONOUGH: Both Mr. Burke and I believe that it should be kept here.

THE COURT: I am perfectly willing to order that it be made available to you, but as to the keeping of it, I am not inclined to do that.

MR. McDONOUGH: May we have a moment?

THE COURT: Surely.

(Conference between Mr. McDonough and Mr. Burke)

MR. McDONOUGH: Well, of course, Your Honor, this can probably be worked out this way regarding the book. I understand that Mr. Bill stated he is going back to Culombe. That may happen this afternoon.

THE COURT: That's right.

MR. McDONOUGH: So we may avoid the necessity of going into this.

THE COURT: All right.

MR. BILL: What is the custom on baths and showers at the jail. How often? A. At least once a week.

MR. BILL: At least once a week? All right.

THE COURT: You may step down.

MR. BILL: Your Honor, before I proceed any further

may I have a short recess? It concerns the possibility of another witness?

THE COURT: All right. Escort the accused from the courtroom.

(Accused escorted from courtroom)

THE COURT: Short recess, Sheriff.

(Recess at 2:20 P.M.)

AFTER RECESS - 2:35 P.M.

(Jury not present.)

THE COURT: Bring in the accused, Sheriff.

(Accused present in the courtroom.)

THE COURT: Will you proceed, Mr. LaBelle.

SAMUEL ROME, called on rebuttal by the State.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. I want to refer, Lieutenant, to Sunday morning, which would be the 24th of February. Do you recall when you first saw Joseph Taborsky that morning? A. Yes, sir, I saw him in the cell at the State Police barracks in Hartford.

Q. Joseph Taborsky testified you asked him that morning in the cell, "How are you doing?" A. Yes, sir, he did.

Q. Is that so? A. Yes, sir.

Q. What did he tell you? A. He said he was doing all right. I asked him if he was comfortable, if he had had breakfast.

MR. BURKE: I will object to this. It isn't responsive to anything.

THE COURT: You mean it isn't responsive to the question or the evidence?

MR. BURKE: It is not responsive to the question.

THE COURT: Would you read the question, Mr. MacGlashan, please? Read the question and answer.

(The question and answer were read.)

THE COURT: On the basis there should be a question before that?

MR. BURKE: Yes, Your Honor.

THE COURT: Would you read the original question?

(The reporter read the original question.)

THE COURT: Stop at the first part of the answer. The rest may go out.

Q. Was there further conversation at that time?
A. Yes.

Q. What was the further conversation with Joseph Taborsky? A. I asked him if he had had breakfast and he said no, not as yet. And I told him I would take care of it.

Q. Was there further conversation about blankets?
A. Yes, sir.

Q. Tell us that conversation. A. I asked him whether or not he had sufficient blankets and he said he had slept with his clothes on.

Q. Did you do anything when you heard that?
A. Yes, there was an empty cell vacant, a vacant cell that wasn't used in between and I took a blanket from that cell and gave it to Joseph Taborsky to put in his cell.

Q. Did that blanket stay in the cell while he was at the barracks? A. As far as I know, yes.

Q. Did he ever complain to you at any other time about blankets? A. No, sir.

Q. And after February 23 did he ever complain to you about blankets? A. No, sir.

Q. Did he ever complain to you about any other condition in his cell? A. No, sir.

Q. Do you know whether or not he made any complaints to anyone else that came to your attention?
A. No complaints came to my attention.

Q. Now, I want to refer to the time you went to the New Britain Police Court on Tuesday morning?
A. Yes, sir.

Q. I believe you testified, as did Joseph Taborsky, that Mrs. Taborsky, his mother, and his sister visited him in the prosecutor's office outside the courtroom?
A. Yes, sir.

Q. Is that correct? A. It is.

Q. And you were present? A. I was.

Q. Now, at that time, in the prosecutor's office was there anyone else there?

MR. BURKE: I will object to this as repetitious. They went into it on direct examination thoroughly and now we are going into it again.

MR. LaBELLE: It is contradiction.

THE COURT: Mr. Burke makes a good point and I don't think this is new matter. I will sustain the objection.

MR. LaBELLE: May I be heard?

THE COURT: Yes.

MR. LaBELLE: If Your Honor will recall, there was testimony by Taborsky that he requested a lawyer.

THE COURT: I know it.

MR. LaBELLE: And I feel I have a right to contradict that testimony.

THE COURT: There must be a limit somewhere, Mr. LaBelle, and I think it was thoroughly covered on the previous examination of the Lieutenant, and my recollection is - I could be incorrect - that Mr. Taborsky's testimony was in contradiction of the Officer's. I do not believe it is new matter and I will sustain the objection.

MR. LaBELLE: May I have an exception?

THE COURT: Surely.

Q. Now, Lieutenant Rome, sometime a few weeks ago did you have a conversation with Joseph Taborsky downstairs here concerning his attitude toward you?

A. Yes, sir, I did.

Q. Do you recall when that conversation took place?

A. Approximately three weeks ago.

Q. And where was it? A. Downstairs in the lockup in the Superior Court Building - County Court Building.

Q. Down below this room? A. Yes.

Q. At that time what was the conversation between you and Joseph Taborsky as to his feeling toward you?

MR. BURKE: Objection, Your Honor.

THE COURT: What is the objection?

MR. BURKE: I don't know how this is admissible or relevant to any issue - Taborsky's attitude toward Rome.

THE COURT: Well, except this, that in the cross examination there was a question asked Taborsky whether or not he said something about Lieutenant Rome being the only cop he had any respect for, or some such remark, and

it is my recollection that that is new matter. He denied it. This is being offered to cover that situation.

MR. LaBELLE: Precisely, Your Honor.

THE COURT: I will allow it.

MR. BURKE: May I have an exception?

THE COURT: Surely. Answer it.

THE WITNESS: I had a talk with Joseph Taborsky during one of the recess periods and Taborsky said to me, "You know, Lieutenant, I think a lot of you and you are the only cop I ever had any respect for," and he says, "You know as well as I that I am guilty."

MR. BURKE: I am going to object.

THE COURT: I will strike that out. It may stop with the last sentence. Would you read it, Mr. MacGlashan, so it will be clear?

MR. LaBELLE: I don't claim that part.

THE COURT: I want the record clear.

(The reporter read the answer: "I had a talk with Joseph Taborsky during one of the recess periods and Taborsky said to me, 'You know, Lieutenant, I think a lot of you and you are the only cop I ever had any respect for".)

THE COURT: Stop there. The rest may go out.

Q. Showing you State's Exhibit DD for identification, I don't think it was clear the circumstances of the signing of that paper.

MR. BURKE: If Your Honor please -

THE COURT: There is no question - wait a minute.

Q. What day was State's Exhibit DD for identification signed?

MR. BURKE: I am going to object. It is repetitious.

THE COURT: I will sustain the objection.

MR. LaBELLE: May I be heard?

THE COURT: You may be heard but I will sustain it. It is repetitious.

MR. LaBELLE: I don't think it has ever been fully established that he was brought from the jail on the day it was signed and it was signed in the barracks.

THE COURT: I don't know where I got the impression, but it is clear in my mind, Mr. LaBelle.

MR. LaBELLE: I have no further questions.

CROSS EXAMINATION BY MR. BURKE:

Q. Just one question. About this blanket, Lieutenant, you don't know, do you, whether or not there was a blanket there Sunday night? A. No, I do not - Sunday night.

MR. BURKE: That is all.

(Witness excused.)

MR. BILL: That closes the Taborsky situation.

THE COURT: Are you ready to proceed with Culombe?

MR. BILL: Yes, Your Honor.

MR. McDONOUGH: I understand we are going to argue this all at once?

THE COURT: That is what I understood was the agreement.

JOHN F. FERSCH, a witness on behalf of the State, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. John F. Fersch.

Q. Your address? A. 17 Rosedale Street, Wethersfield.

DIRECT EXAMINATION BY MR. BILL:

Q. You are employed by the State Police Department? A. Yes.

Q. And how long have you been? A. About fifteen years.

Q. And whether or not on Saturday, March 2, 1957, you were, in the evening, at State Police Headquarters? A. I was.

Q. Were you on duty at that time? A. I was.

Q. And what was your duty? A. I was assigned by Lieutenant Rome to guard Arthur Culombe in a cell from about six P.M. in the evening until about midnight.

Q. Did you perform that duty? A. I did.

Q. Were you there during those hours on guard? A. I was.

Q. And whether or not during the evening you talked with Culombe? A. I did.

Q. And will you tell us what was said? A. At about ten o'clock on the night of March 2, 1957 Culombe said that he couldn't sleep because he had something on his mind and he wanted to talk about it. So I asked him what it was and he said he wanted to give me some information relative to the shooting in New Britain, and also about another incident in Hartford.

Q. Where were you at the time in relation to the cell? A. I was seated outside the cell door.

Q. Were you out there all during the time upto that point? A. I was, sir.

Q. And had you talked to him prior to that?

A. At about six P.M. when he first came into the cell block I said, "Hi, Art." - or something of that sort.

Q. And was that all you remember that occurred between you? A. Yes.

Q. Was there anything else said about any other incident - strike that - if there was anything said about any other incident except New Britain I don't care about that. New Britain is what I am asking about. A. He told me on the night of December 15, 1956 he and Joe Taborsky went to New Britain in Culombe's car, which was a 1949 black Oldsmobile, he said that he, Culombe, did the driving and they drove up and down Stanley Street looking, according to Culombe, for a place to holdup. They saw a gas station and they drove into the gas station. When the attendant came out, Culombe asked the attendant to fill up his gas tank, and while this process was being taken care of, Taborsky asked the attendant where the men's room was and he was told and Taborsky left the car and went into the gas station. Culombe, after his car had been serviced gave the station attendant two dollars in payment for the gasoline and then also told the attendant he was going into the men's room. When Culombe and the attendant got to the men's room, Culombe, to use his own words, put his gun on him and ordered him to the boiler room where he shot the gas station attendant. At that point he and Taborsky turned the body of the attendant over and took his wallet from his pocket and they also rifled the cash register. Then about that time a customer drove up to the gas pump and Taborsky -

MR. BURKE: May I at this point object as I did before.

THE COURT: Yes, and the same ruling for the time being. Whatever is said here will have no reference to the Taborsky confession whatsoever.

MR. BURKE: May I have an exception, Your Honor?

THE COURT: Surely. Go ahead.

THE WITNESS: At this point the customer drove up to the gas pump and Taborsky went out and put his gun on that customer and brought him into the gas station in the men's room and Culombe stated he heard a shot and then later saw Taborsky emerge from the men's room. Taborsky then said to Culombe "Let's go", and they both got in the car and drove away. They drove back to Hartford. Culombe told me that Taborsky rode beside him with a gun in his lap and made the remark that if they were stopped he would kill anyone that tried to stop him.

Q. Anything further in that conversation?

A. Well, after relating this information to me, I informed Culombe I would tell Lieutenant Rome about it, and that I did, and after making the phone call to Lieutenant Rome at his home, I then informed Culombe I had informed Lieutenant Rome, and he said, "thanks", or words to that effect.

Q. Did that complete your conversation with him that night, at least in relation to this matter? A. That's right, sir.

Q. Now, the next day were you present at a conference where Culombe was there? A. I was.

Q. And where was that? A. That was in the interrogation room next to the Lieutenant Rome's office.

Q. And that was Sunday? A. That's right.

Q. Morning or afternoon? A. It was in the morning.

Q. And who was there? A. Lieutenant Rome, Arthur Culombe, Officer Moran and myself.

Q. And what took place there? A. A statement was taken from Arthur Culombe relative to the information he gave me the night before and I typed it up.

Q. You typed it? A. I did.

Q. Who conducted the questioning? A. Lieutenant Rome.

Q. And in what manner did he do it? A. Lieutenant Rome would ask Culombe a question, and upon receipt of an answer from Culombe, he would phrase the answer in his own words and ask Culombe if the answer was correct, and if Culombe said the answer was correct Lieutenant would read it and I would type it - the question and the answer.

Q. I show you this - these three typewritten pages and ask you if you recognize them? A. Yes, sir, I do.

Q. As what? A. The statement that was taken from Arthur Culombe by Lieutenant Rome on the morning of March 3, 1957.

Q. Are these the pages that you put on the typewriter? A. Yes, sir.

Q. And is it signed? A. It is.

Q. Was that signed in your presence? A. Yes, sir.

Q. By whom? A. Arthur Culombe, Lieutenant Rome and Frederick Moran.

Q. And the latter two as witnesses? A. Yes.

Q. And you yourself? A. That is correct.

MR. BILL: I offer that for identification.

MR. McDONOUGH: I can't object to that. I can look at it later.

MR. BILL: The same as the rest of them.

MR. McDONOUGH: For identification.

THE COURT: Yes, with the same understanding that it is to be used and examined on.

MR. BILL: At this hearing?

THE COURT: At this hearing only.

(Three page statement of Culombe Marked State's Exhibit EE for identification.)

Q. One other question. I want to clear this up. You say that you sat at the cell there of Culombe between six and what time? A. I sat there from six until about midnight.

Q. And about what time did he make an oral statement to you? A. About ten p.m

Q. And was there anybody else there, either in the cell or in the vicinity of the cell, other than you and Culombe? A. There was not.

Q. From the time that you went on there at six o'clock until he made this oral statement around ten?
A. To the best of my recollection there was no one there.

Q. Nobody talked to him? A. That's right.

Q. And you hadn't talked to him about this situation up until then? A. No, sir, I had not.

MR. BILL: Your witness.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. What time were you on guard duty, Officer?
A. From about six p.m. until about midnight.

MR. McDONOUGH: May I look at this for a moment, Your Honor?

THE COURT: Surely.

Q. When was the statement that you typed, Officer, taken? A. On the morning of March 3rd, 1957.

Q. Sunday morning? A. I believe that it was Sunday morning.

Q. What time? A. I believe that it started about 11:30 A.M.

Q. Now, this was subsequent - question withdrawn. You have been in this courtroom for several days, haven't you, probably a week, listening to the testimony?
A. Yes, sir.

Q. And you knew of the statement that Culombe signed on the Thursday, on Wednesday, February 27th?
A. I knew of it.

Q. You knew of it, and you knew of it at the time that you talked to Culombe on Saturday night? A. Yes, sir.

Q. You hadn't seen it, but you knew about it? So this statement was subsequent to the time that Culombe gave the statement that I am referring to? A. That's right.

Q. At the time that you talked to Culombe on Saturday night, Culombe was by then a pretty thoroughly beaten individual, wasn't he? A. Not to my knowledge.

Q. Well, he was down in the boots, as the expression is used, wasn't he A. He might have been.

MR. BILL: Objection?

Q. Was he?

THE COURT: There is an objection. I must say that I am inclined to sustain it because my interpretation might not be the same as the witness. The answer may go out.

MR. McDONOUGH: Maybe he doesn't know what "down in the boots" means.

THE COURT: Maybe I don't, either.

MR. McDONOUGH: I won't make any comment.

THE COURT: Thank you, Mr. McDonough.

Q. How was he feeling? How did he feel?
A. I'd say that he felt restless.

Q. Restless, nervous, is that right, Officer?
A. That's right.

Q. And you went to work about six o'clock?
A. About that time.

Q. And when you first went to work did you have a conversation with Culombe? A. I believe I said "Hi, Arthur," or words to that effect.

Q. Just gave him the time of day, or of night, right?
A. That's right, sir.

Q. And when is the next time that you talked to Culombe? A. About ten p.m.

Q. What were you doing when the conversation started? A. I was reading a book.

Q. In the corner in the cellblock? A. Yes, sir.

Q. What cell was Culombe in? A. The first one.

Q. How many cells are in that block? A. Three.

Q. Was Taborsky in a cell in that block on Saturday night? A. No, sir.

Q. He was at the county jail? A. Of my knowledge I don't know that.

Q. He wasn't in the cellblock, anyway? A. No, sir.

Q. Culombe was in number one cell nearest the door?
A. That's right.

Q. Anybody else, any other prisoners in any of the cells? A. Not to my recollection.

Q. Any of those officers in the cellblock between six o'clock and ten o'clock? A. Not as far as I can recall.

Q. And your conversation with him that you have referred to, started about ten o'clock? A. Yes, sir.

Q. And how long did that conversation take?
A. About fifteen or twenty minutes.

Q. Now, is the statement that has been reduced to typing and marked "State's Exhibit EE the same as the statement that Culombe gave to you verbally on the night of Saturday, previous to the day that the statement was taken? A. Substantially it is the same with the exception of the major incidents involved in Hartford.

Q. As far as the New Britain matter is concerned it is substantially the same? A. Yes, sir.

Q. You mean that there might be differences in what they did when they were on Stanley Street before the claimed hold up, is that right? A. May I have that question?

Q. For example - I will withdraw that, Officer, and put this one. In your direct examination you said that Culombe told you that "He drove up and down Stanley Street, in New Britain." Now, did he say that to you?
A. Yes, sir, he did.

Q. In the statement it said "While riding on Stanley Street toward the center of New Britain we saw a gas station on the left hand side", and so on. "We rode past the station for a way, turned around and drove into the yard." In other

words what he said to you Saturday night, "We drove up and down Stanley Street", has not been put into that statement in that fashion? A. That's right.

Q. And that's the way your statement differs on Sunday morning that was reduced to typing, from that of Saturday night? A. That's right.

Q. Did this conversation with Culombe on Saturday night take afout fifteen minutes? A. Fifteen or twenty minutes.

Q. Was anyone else there when you had this conversation with him? A. There was not.

Q. What did you say when you finished the conversation? A. I told Arthur Culombe that I would so advise Lieutenant Rome of the conversation that had just transpired.

Q. Well, what did you do? Never mind what you told Arthur Culombe. What did you do? A. I called Lieutenant Rome.

Q. At what time? A. Approximately 10:25 or 10:30.

Q. On that Saturday night? A. Yes, sir.

Q. Did you see Lieutenant Rome on Saturday night?
A. I did not.

Q. But you did talk to him on the phone? A. I did.

Q. Where did you talk to him? At his home?
A. At his home.

Q. Have you put everything into the statement - question withdrawn. Is everything in this statement substantially as it applies to the New Britain incident, that he told you? A. It is.

Q. I don't mean such as the Stanley Street incident, driving up and down, or just riding on Stanley Street. I mean as to what happened in the gas station? A. Yes, sir, it is.

Q. Everything in there is correct so far as you know? I don't mean as to what happened, but as to what he told you? A. Yes, sir.

Q. You are certain about it? A. Yes, sir, I am.

Q. Did he tell you how the gun happened to go off? A. I don't think that we discussed that Saturday night.

Q. Well, are you sure he didn't? A. I am sure that he didn't.

Q. Did you make a note Saturday night at the time that he told you, of what he said? A. I made a brief note as to date.

Q. Is that all? A. That's all.

Q. How long have you been with the state police? A. About fifteen years.

Q. Isn't the policy of training the state police department that notes be made of a statement? A. I think so.

Q. Other than the dates? A. I believe so.

Q. Here is a man that was telling you about a hold-up and a murder and you are the only one that heard it and you made no notes? A. Yes, sir.

Q. Why? A. Because we were going to get a statement from Culombe the following morning.

Q. How do you know that you were? How did you know that you would? A. I had talked to Lieutenant Rome about it.

Q. But how did you know that Culombe wouldn't renege in the morning? A. I didn't know.

Q. So you didn't know that you were going to get a statement from him in the morning? A. That's right.

Q. That is your answer, isn't it? A. That is my answer.

Q. And yet not knowing whether you would get a statement in the morning from Culombe, you made no notes of the conversation? A. I made no notes other than I put the date down, and the fact that I had a conversation with him.

Q. Where are those notes now? A. In my pocket.

Q. Have you them with you? A. I have.

Q. Could I see them?

That half is a note referring to the admittance, as you phrase it on Saturday night, and the other half of the note is that on Sunday the statement was typed out? A. That's right.

Q. But as to what he said? Your conclusion that there was an admittance. Those are your personal notes?
A. That's right.

Q. They are not really personal notes, are they? They are official notes, aren't they, in the course of your police duty? A. I don't quite understand the question.

Q. Those notes were made in the course of your duty as official police notes? There is nothing personal to you about them, is there? A. That's right.

Q. Is that a notebook that you keep in the performance of your police work? A. It is a notebook that I started using when I was assigned to this investigation.

Q. There is nothing personal, such as personal purchases, or if you went on a fishing trip, written in that book, is there? A. No, there isn't.

Q. It is all police notes? A. That's right.

Q. Why didn't you turn those notes over to your superior and be made part of this file, the Culombe file? A. I did type a statement the following day relative to that information.

Q. When did you type the statement? A. The following day.

Q. Sunday? A. That's right.

Q. And did you put in that statement - question withdrawn. May I have the statement? A. I don't have the statement.

MR. McDONOUGH: May I ask the State, through the Court, to produce that statement?

MR. BILL: Certainly.

Q. Don't you think that it would have been much better, Officer, to have made a complete notation of everything he said that night so that it would have helped us in the trial of this case?

MR. BILL: Your Honor, I object.

THE COURT: I sustain it.

MR. McDONOUGH: May I have an exception, please?

THE COURT: Certainly.

Q. What branch of the State Police Department at that time, Officer, were you assigned to? The Special Service? A. That's right.

Q. The Special Service Division is the Detective Division of the state police, isn't it? A. That's right.

Q. How long had you been with the Special Service?
A. Since about the latter part of January of this year.

Q. Now, you were present when State's Exhibit EE for identification was typed out? A. I was.

Q. You typed it out? A. I did.

Q. Whose language is this in the typing of this?
A. Most of it is Lieutenant Rome's but I believe that there are some direct quotations in there.

Q. Did he say this to you? I am reading from the statement Officer: "I told him to get into the right corner of this room and he did not seem to want to do what I told him, so I pushed him with my left hand. He hit the wall with his back. Then he seemed to come at me and then I pushed him again, and then the gun went off." Did he say that to you on Saturday night? A. Not in those words.

Q. Well, did he say this on Sunday? A. Did he say that on Sunday?

Q. On Sunday when this statement was typed by you?
A. Not in exactly those words.

Q. If he didn't use those words why did you put those words in there? A. Lieutenant Rome told me to.

Q. What words did he use - question withdrawn. He used other words, didn't he? A. That's right.

Q. In other words, the statements that Culombe made are not typed into this State's Exhibit EE, but it is a statement of Lieutenant Rome, that is correct, isn't it?
A. It is a statement of Lieutenant Rome taken from Arthur Culombe.

Q. I didn't ask you that.

MR. McDONOUGH: May the answer go out, Your Honor, as not responsive.

MR. BILL: May I hear the question, Your Honor?

THE COURT: Read the question, Mr. Burke.

(Last question read by reporter)

THE COURT: Now read the answer.

(Last answer read by reporter)

THE COURT: I'll strike it out. Read the question.

MR. McDONOUGH: I will reframe it.

THE COURT: All right.

MR. McDONOUGH: Then we will avoid controversy. I don't like controversy.

THE COURT: It is nice to hear it.

Q. Did you type out the statement of Arthur Culombe? A. I did.

Q. Did Arthur Culombe give you a statement?
A. No, he gave it to Lieutenant Rome.

Q. Well, whose dictation were you taking, Lieutenant Rome's or Arthur Culombe's? A. Lieutenant Rome's.

Q. Arthur Culombe spoke English, didn't he?
A. Yes, sir.

Q. You heard him on the witness stand in this court?
A. I did.

Q. You had no difficulty understanding what he said, did you? A. No.

Q. Saturday night that you testified to, you understood what he said, did you? A. I did.

Q. And you could have typed down, if you had a typewriter, what Culombe said, couldn't you? A. I could have.

Q. And Sunday the statement of Arthur Culombe could have been typed by you, isn't that so? A. That's right.

Q. It wasn't necessary to type the statement of Lieutenant Rome, was it? Culombe's language was capable of being put down in black and white, that is so, isn't it?

A. That's right.

Q. So that this is the statement, regardless of where it came from, but State's Exhibit EE is not the statement of Arthur Culombe but is the statement of Lieutenant Rome, isn't that so? A. Yes.

MR. McDONOUGH: That's all. Thank you, Officer

REDIRECT EXAMINATION BY MR. BILL:

Q. Well, now, when you say that, what you took down, were there questions and answers between Lieutenant Rome and Culombe? A. There was.

Q. And when a question was put by Lieutenant Rome was there an answer? A. There was.

Q. Given by Culombe? A. There was.

Q. It was in that form, was it? Was the matter discussed before? Was the matter discussed and then Rome put it in form?

MR. McDONOUGH: I object.

MR. BILL: I claim it, Your Honor.

MR. McDONOUGH: Object for two reasons, Your Honor. The first reason is, it is leading, but as Your Honor

has said, that in itself is not sufficient, but it doesn't help any.

THE COURT: It is a matter of opinion.

MR. McDONOUGH: But secondly, it is repetitious.

THE COURT: It is repetitious. The witness testified that Lieutenant Rome asked Arthur Culombe questions, that Arthur Culombe gave answers, that Lieutenant Rome rephrased it or put in other words and then asked Culombe whether or not that was correct, and Culombe said that it was, and then he nodded to the witness who then typed the second question and the correction, as I understand it.

MR. McDONOUGH. That has been the testimony.

MR. BILL: If that is clear in Your Honor's mind -

THE COURT: That is the testimony.

MR. BILL: But Mr. McDonough is getting the witness to say that it is Lieutenant Rome's statement and not Culombe's. If Your Honor understands the situation -

THE COURT: I understand it.

MR. McDONOUGH: That is a matter of argument, I'll claim it's Rome's statement.

THE COURT: I understand you will. That is my understanding at the State's evidence, and my understanding of the cross examination is that he said that it was not Arthur Culombe's statement but Lieutenant Rome's statement.

MR. McDONOUGH: That's right, Your Honor. And I left it there, well satisfied.

THE COURT: Thank you.

MR. McDONOUGH: That's all.

THE COURT: Anything further?

MR. BILL: No, that's all.

THE COURT: You may step down.

MR. BILL: That's all for Culombe.

THE COURT: You are ready for arguments? Are you ready to proceed or would you like a recess?

MR. McDONOUGH: We would like a little time.

THE COURT: Will you escort the accused from the courtroom?

(Accused escorted from courtroom)

THE COURT: Short recess, Sheriff.

(Recess at 3:15 P.M.)

AFTER RECESS - 3:30 P.M.

(Jury not present)

THE COURT: Bring in the accused, Sheriff.

(Accused present in the courtroom)

THE COURT: Mr. LaBelle, when you are ready.

MR. LaBELLE: May it please the Court, the State's position, of course, Your Honor, is that the three exhibits marked for identification, namely, the first statement of Culombe, the statement of Taborsky, and the second statement of Culombe, were confessions that were obtained voluntarily without any force or promises, without any threats or violence, and that all three are proper to be admitted in evidence.

I might say, Your Honor, that the first question that comes up is the conduct of the investigation by the State Police people, and I say this after some thought, that the investigation and the procedures followed by the State Police Department were on the highest traditions of law

enforcement procedure. I don't think there is a scintilla of evidence that our State Police Department did anything other than try to obtain in a fair and proper way the truth involving the matters they were investigating. Any innuendo to the contrary does not bear out the fact.

There has been something said, for example, Your Honor, that Saturday the two accused were permitted to drink liquor. The State's position is, Your Honor, however much they had to drink - I don't know that there is any evidence we had that it was a half a pint or a gallon bottle, - but whatever they did on that occasion, they were not under arrest at that time, and whatever happened on that day was certainly a good many days before any of these exhibits we are offering in evidence were obtained.

There has been no evidence, whatsoever, Your Honor, of trickery or misstatements made by the State Police - none whatsoever. Proper police investigative procedures were followed in every instance, and there hasn't been a bit of evidence here to indicate that these exhibits were obtained in any other but a voluntary and proper way.

For example, let us take the first statement of Culombe. There is any evidence that there was any promise made to Culombe; no evidence of any threat. There is an alleged claim that he was kicked in the ankle and ribs, but as far as that evidence was concerned, it is self-serving and not substantiated in any way. There were no marks; he never mentioned it to his wife on the very afternoon when he made his confession; he was there in his own apartment sitting with his wife and talking to her, and not once did he mention to her that he had been abused in any manner whatsoever.

The fact that these confessions were obtained, Your Honor, while they were in custody doesn't make them involuntary. Naturally, the State Police in this instance were

going to conduct an investigation. They are charged with that duty, and I say they conducted it according to the highest standards. In the Taborsky confession, Your Honor, from Tuesday night at 8:00 o'clock until 6:00 o'clock on Friday night, when this confession was obtained, the man was talked to for only one hour. That doesn't appear to have any third degree methods applied. And on Thursday, too, Your Honor, in this court, he was warned of his constitutional rights by Judge Bordon, and yet, the very next day, at 6:00 p.m. o'clock or thereabouts, this confession was obtained when his mother came to see him; and at that time, Your Honor, there doesn't appear to be any evidence other than the fact that his mother was trying to obtain the truth. Even the witness himself and his mother told him to tell the truth, and after all, what is the reason for obtaining a confession except to obtain the truth?

There has been a claim, Your Honor, as to motive in confessing. For example, Taborsky's motive that he wanted to relieve his mother's mind. What relief did he want to give to his mother? Only to tell the truth. That isn't coercion. And whatever his motive was in this case, Your Honor, as long as that confession was obtained and made voluntarily, it is a perfectly proper exhibit to be admitted into evidence.

The same thing with Culombe. What did his wife tell him to do? She also told him to tell the truth. Both of these confessions by both of these men as a result of these please to tell the truth.

Now, to come back again, Your Honor, to the facts in the Culombe case. This is what he testified to - and if his testimony were substantiated and is believed, any claimed kicking in the ankle or the ribs, which he alleges was done on Monday - he went to the County Jail on Tuesday and nobody knew about it. He didn't make any complaint to

anybody on Tuesday about it. He didn't get any medication on Wednesday or talk on Tuesday about it. The confession didn't come until Wednesday afternoon or Wednesday night - at least two days after he claims he was kicked - if he was kicked.

Certainly there is no evidence to substantiate that the confession, when it was given, was anything but voluntary. And another thing that happened in that confession, Your Honor: He testified he was treated like a father by Sergeant Paige. He didn't see dectectlve Murphy until the afternoon when he started to talk to him. He gave his confession to two police officers who, according to his own statement, treated him with kindness.; Does that show any involuntariness?

As to Culombe's second statement, he also was in the court on Thursday, and the exhibits show that he was warned again all through that he didn't have to give a statement, that he could cooperate with the State Police if he so choose to, and he said to Judge Bordon that he wished to cooperate with them. He confessed the night before on his first statement. What did he do again after that on Saturday night, when no one was near him and nobody had said anything to him for several hours, when a police officer who was guarding him at the jail and reading a book - some four hours had elapsed without anyone saying anything to him, and he called the officer over and told him he had a story to tell him. How much more voluntary can they get?

And so, Your Honor, it is the State's claim that on all three of these confessions, there was absolutely no evidence of coercion, promises, threats or anything, and that the methods employed by the State Police in this instance were not the highest calibre and any procedures followed by them was nothing but of the best and done simply and

purely to carry out their duty, and particularly to obtain the truth.

THE COURT: Mr. McDonough?

MR. McDONOUGH: May it please the Court, this is an important trial. It is important to these two men because their lives are at stake. It is important to the State of Connecticut and to Society because two men are being tried for their lives.

Things are often done during the heat of argument that are not meant, and criticism is made, not to hurt, let us put it that way. The criticisms are sincere, they are vigorous, but not meant to hurt. If they do hurt, it is unfortunate. If the truth hurts it is unfortunate, but the truth often hurts, and the State's Attorney, in opening the argument for the State, certainly invites criticism of the State Police by and as an officer of this court and as counsel for the defendant Culombe. I have to criticise the State Police Department when the Assistant State's Attorney gives credit to the State Police. If this was, to use his language, in the highest traditions of the State Police Department, then those traditions certainly have a very low ceiling. If he says that the highest motives were exercised here by the State Police, I will answer that by saying there was undoubtedly a motive to solve crimes that were disturbing the people of the state. And that is a high motive and a lot of work, but high motives of that sort do not bring with them the stamp of approval to the actions of the officers in seeking to obtain these confessions in violation of the laws of the State of Connecticut.

There never has been, outside the Rogers case, which I am citing to Your Honor, to my knowledge - and it could have happened before - where the rights of the people were more flagrantly and deliberately violated than in this case, and those rights were violated in an effort to induce state-

ments, or so-called confessions, made by the defendants - in my case, Culombe - to be used against them in an effort to send them to the electric chair.

Now, the very last witness, I think, sums up the position on all of these exhibits that are offered as full exhibits. They are offered as the statements of Culombe - and I am merely speaking, as you know, of Culombe's statements. There is not any exhibit in this case that is a statement of Arthur Culombe - not one. We have offered here the statements of Lieutenant Rome, and the statements of Lieutenant Rome are not admissible against Arthur Culombe. Arthur Culombe speaks English, as is well established by the time he spent on this witness stand. If any other proof is necessary, it can be disregarded, because this transcript is filled with statements made by Culombe in this courtroom, and there was no difficulty for those who transcribed his statement.

Officer O'Brien, a witness in this case, was, at the time the statements were typed out by him, a stenographer able to take shorthand statements. Officer O'Brien could have taken down any statement made by Arthur Culombe, and the State does not offer any such statement. That is the statement of the State in this case, and it is nailed down by the testimony of the State's own last witness, Officer Fersch, who says that he could have taken them down - the statements - and typed the statement made by Culombe, and that could have been offered in evidence, but that was not done.

Now, I felt, from a clearly legal standpoint, on the record, these are not Culombe's statements. If Culombe could not speak English, if there had to be an interpreter, and we had to say these are his interpretations, that could be typed out, but that would be his statement. If there were questions and answers, as the State claims, in this

case, those questions and answers could have been taken down by Officer O'Brien, and it probably would be admissible, but here is a statement to be offered by the State as the statement of Arthur Culombe, which is something different.

Before a statement can be accepted in evidence, first, it has to be a statement of the accused; then it has to be subjected to the test as to whether or not it is a voluntary statement. Confession is merely a word - it is a coined word. Confession is a statement. A statement can be a declaration, a confession or a number of things. In a criminal case it is true it is called a confession, but first, the State has to show it is a statement of the accused. There is no evidence here that shows that these two exhibits offered by the State are statements of Culombe . . So, first, leaving out the voluntary aspect of the exhibits offered by the State, I say there is no statement at all, so they are out for that reason in itself.

Whether or not Your Honor will agree with me when you come to that point, you reach a decision that they are not statements of the accused, you will exclude them. But Your Honor might reach a point where you decide they are statements. Then you come down to the question - Are they voluntary statements? The claim by the defense is that they are not voluntary; that they were obtained by force, by coercion, by pressure and by threats. How far the evidence shows promises, I don't know, unless we can prove that the statement made to Culombe that they asked him: "What do you want to take the rap for - why don't you take the lesser rap?" - if that could be construed as an inducement or a promise that he could get a lesser penalty than the top penalty, I don't know.

But there is certainly evidence here of force through kicking and striking and choking, and when Mr. LaBelle

says there is no evidence in this case of force on the part of the State Police in obtaining this evidence, Mr. LaBelle is disregarding the testimony. If Mr. LaBelle wants to disregard the weight to be given to that testimony, that is a different story. But there is evidence. Of course, consideration is to be given that evidence - that is entirely up to the Court. But for the State's Attorney to say there is no evidence of force or threats or coercion or pressure - the State's Attorney is wrong in that claim, and that is my position. I think it has to be faced by everyone that there is evidence, and our claim is that that evidence is sufficient for the Court to exclude the offered exhibits, even if the Court does consider that they are Culombe's statements, - and the State has to overcome that hurdle first.

Now, I realize that the law as laid down in the case of State of Connecticut against Rogers has been violently and openly disagreed with by a higher court in the land. It is disagreed with by the Supreme Court of the United States, and it is disagreed with by the District Court of the United States for this Federal District when that court granted a writ of habeas corpus after the matter had been confirmed by the Supreme Court of Connecticut and was sent back for retrial. As I understand the situation, that decision of the Federal Court puts the case back as pending before the courts of this state.

But even this case does not meet the law in the Rogers case as laid down by the Supreme Court, in which Mr. Justice Wynne, in State against Rogers, after discussing the claims in this case, the claim being that the defendant was held at the county jail, and that is our claim here - that Culombe was committed to the County Jail on February 26, and in that case, he was brought to the State's Attorney's office where he made a statement to the police. Our claim is that he was taken unlawfully from the County Jail to the State Police headquarters where a statement they claim

he made and we claim he did not make was made to the State Police. And in the Rogers case that later he made a second statement before the coroner, and they were called illegal because the officer had no legal right whatsoever to take him out of the jail. "He also protests that he was held incummunicado and denied legal counsel before the statements were made".

That is the exact situation in this case. Culombe was held not only for a matter of eight hours, but a matter of five days and five nights, and then this so-called statement of Culombe's was obtained. The Supreme Court of this state conceded that this was all true and that such conduct was unlawful. So just for the sake of argument, the State may - and I don't say it will, but for the sake of argument, the State may say in answer to our claims that it concedes our claims are true, and that such conduct in itself was unlawful, yet standing alone it does not render the defendant's confessions inadmissible. That is the rule in the Rogers case.

And the Court said in the Rogers case, "The question is whether under these and other circumstances of the case that conduct induced the defendant to confess falsely that he had committed the crime being investigated. Unless it did, it cannot be said that its illegality vitiated his confessions."

That's our rule and that's where it disagrees with the Federal rule. But even the rule in the Rogers case - and again to a certain extent in this particular case - doesn't apply, because under the State's own offer itself testifies by its two offers to the falsity of Culombe's first confession, because in the offer of the so-called first confession by the State, State's Exhibit Z, that statement states that Taborsky shot and killed both of the men in the station, that Culombe stayed outside; and then the State offers another so-called

statement of the accused Culombe in which Culombe says that he shot and killed - that a gun went off that he handled, from which the death of Kurpiewski, the gasoline station attendant, resulted.

That second offered statement on the part of the State, if accepted as the truth, shows the first one to be false; so therefore the rule in the Rogers case is applicable in this case, because our rule in Connecticut, apparently, at the present time is that where certain acts, even though unlawful, are admitted, the confession is admissible unless it is shown to be a falsity. Well, there is shown to be a falsity in Exhibit Z offered by the State, because in a later statement or claimed statement offered by the State they claim that the statement was false, that Culombe actually handled the gun that killed one of the deceased men.

I call to Your Honor's attention that in the Rogers case there was a dissenting opinion by Justice O'Sullivan, now the present Chief Justice, and he wrote a rather lengthy opinion, if it may please the Court, and I am not certainly going to read all of his opinion, because Your Honor has read it; I am going to call to your attention certain portions of it that apply to this case. Referring to the defendant in the Rogers case our present Chief Justice said:

"The removal of the defendant on January 30th and his detention for over twelve hours in the State's Attorney's office were clearly illegal."

Well, we've got twelve hours in the Rogers case that the Chief Justice designates as clearly illegal, and in the Culombe case we've got five days and five nights, which, if measured in that one particular instance of the Rogers case, were clearly illegal in the present case before the Court now. It is flagrantly illegal.

Justice O'Sullivan says: "While the investigating authorities" - and I call this to the attention of the State.

It applies here. - "have the duty of attempting to solve crimes and of bringing criminals to trial, that does not confer upon them any right to use unlawful measures to attain their ends."

And that was done here, and done almost concededly by the admission of the police officers on the stand in this particular case. And I don't believe there will be a claim by the State that their actions were lawful in the matters that we claim were unlawful.

The police officers and the county jail acted unlawfully when Culombe was borrowed - That's a new word to be coined in our legal phraseology; "borrowed". It's even on the records of the books of the Hartford County jail that a man committed to the custody of the keeper of the county jail, until discharged by due process of law, was borrowed by the State Police. That was unlawful. The keeper of the jail had no right, no right whatsoever, to allow Culombe to be taken out by anyone without an order of Court.

And I am stressing this because it is the opinion - the dissenting opinion of the Chief Justice and the opinion of the United States District Court in sending that case back for a new trial.

The action of the County authorities was flagrantly unlawful. And how did they go about it? The very manner the evidence in this case shows that they realized the illegality of it. And who was the victim of the illegality? The defendant in this case. What was the purpose of that illegal act? And I am now constantly referring back to this Rogers case, and to the Rogers case in the Federal Court. What was the purpose of those illegal acts in the county jail, the violating of an order of a criminal court of this State? To induce a so-called confession or a statement which is offered in evidence in this case. And how was it handled at the jail?

Mr. Bill very properly objected to my use of the word "kidnapping" during the course of the examination on yesterday. When I was examining Mr. Baikal from the jail, when he put him outside the door and I said, "He grabbed him", and that was stricken out by the Court; very properly so, because that should be reserved for argument. Well, here is argument, and now I use those words. The kidnapping is unlawful. Kidnapping in certain cases - And I don't claim that it was done as is meant under our criminal statutes - but kidnapping is a word in the English language which I understand to mean the taking and the transporting of a person against their right to be taken. That's the way I consider it, and Culombe was in the custody of the keeper of the Hartford county jail by virtue of a legal order, and what happened?

A guard goes to his cell - This is not only illegal; it is outrageous and we ought to stop such procedure. I hope that the result of this trial is to make public officials obey the law. I don't know what good it will do us in this case, even though our rights were violated.

A guard goes to his cell, unlocks the door, tells him to get his coat, or whatever he has, brings him through the cell block, opens the door from the cell block into the hall, and pushes him through. And as a matter of fact the guard did answer "Yes" when I said "grabbed" - "and the State Police grabbed him". And they had no right to do it. And they brought him to State Police headquarters and worked him over some more until that afternoon they got the confession. And when I say "worked him over" I mean worked him over. But in the first place that was an illegal act, taking him out of that jail.

Now, Judge Smith, in sending that case back for a retrial, said, "If the confessions were coerced" - and I claim they were coerced in this case; and all of these instances

that I am mentioning add up to the word "coercion". Each one in itself might not mean anything, but all added together attains what is now being offered against the accused and labeled as his voluntary confession. I have never heard, in the face of the evidence that has been introduced in Court, such a hypocritical claim in all my career at the Bar. I label it as a hypocritical claim that these are voluntary confessions.

Judge Smith said, "If the confessions were coerced", - and I am reading from the opinion - "that is, involuntary, it was a constitutional error to admit them into evidence on the question of Roger's guilt. *Citing Stein vs. New York*, 346 U. S. 156; *Leyra v. Denno; Rochin vs. California*, 342 U. S. 165.

And Judge Smith had this to say in his opinion:

"The Supreme Court of Errors in this case appears to assume that admission of a coerced confession is not constitutional error unless the confession is shown to be untrue. This is not in accord with the federal constitutional rule which we must apply here."

And if we must apply the federal constitutional rule in the murder case of State of Connecticut vs. Rogers we must apply the federal constitutional rule in the murder case of State of Connecticut vs. Arthur Culombe, and we must apply that rule which says that the admission of a coerced confession is not constitutional. And if there was ever anything more reasonable that appeals to reason and common sense than the language that I am about to read, I don't know what it can be. Again it goes back to the basic rights of free men.

"Use of involuntary verbal confessions in State criminal trials is constitutionally obnoxious not only because of their unreliability. They are inadmissible under the Due Process Clause even though statements contained in them

may be independently established as true. Coerced confessions offend the community's sense of fair play and decency."

What was the coercion in this case? I am stopping there on a point of law raised in that case. Our Federal Court, following the United States Supreme Court, says is an involuntary confession. I know that the State's Attorney will admit that if Your Honor is shown that these confessions were involuntary confessions they are not admissible. What is the evidence of Culombe that they are involuntary confessions?

Yesterday afternoon I sat here while I had an hour or an hour and a half or two hours of leisure while my associate labored, and made notes of the evidence in this case as it affected Culombe, and to be rather conservative, because I wanted to listen to what was going on, I only arrived at sixteen specific instances of involuntariness and unlawful acts upon the part of the State in obtaining these confessions. Maybe one in itself, maybe two or three, even, added together, though I think they should be sufficient, one in itself might not. But when we have sixteen that I can point out to the Court - and only I don't want to impose further upon Your Honor's indulgence, which certainly has been great up to this point, I think I could go to many more times than sixteen, but I think Your Honor probably can recall the testimony of instances, as Judges often do, that are not even pointed out by counsel.

Culombe was taken into custody - Culombe was arrested - Let's call a spade a spade - on Saturday afternoon. Culombe didn't even have the opportunity of a gracious invitation to drive down to headquarters. Taborsky and Culombe were met by two State Police officers in front of Mrs. Taborsky's home and invited to go to police headquarters. Taborsky could either ride down with Culombe

in his car, following the State officers, or Taborsky could ride down with the State Police. And they rode to State Police headquarters. Taborsky went inside; Culombe drove away. He wasn't in custody. I am not going to argue the Taborsky situation because Mr. Burke can do it probably much better than I could attempt to do it.

Culombe went away. He was still free. He wasn't even in custody. He hadn't even received one of their invitations. But he went home. Then he was taken - Let's get away from this honeyed word that was used here. Honeyed words when they talk about the motives and efforts and work of the State Police. Honeyed words were used by the State Police in their investigation, besides rough words, such as "a God damn liar" and other filthy and profane names applied to the accused. And the honeyed words were used here, and whether or not Lieutenant Rome called Culombe a "liar" - and I'm not going to be responsible by constantly taking God's name in vain in this Courtroom unless it is necessary. Your Honor heard the testimony. But he called him a "liar" - I say that - in the barracks. He added the label and I think that I am justified in asking Your Honor to believe that he did. Why do I say that? Merely upon this alone: His conduct right on the witness stand, and in a raised voice Lieutenant Rome referred to Culombe in this Courtroom as a "liar" several times. The man's got a temper. I can imagine that temper when it went to work on Culombe.

Lieutenant Rome did admit that he was a sorry sight when it came time to be presented in this Court the night that he signed the statements after midnight. No coercion? He was taken into custody and placed under arrest. I asked Lieutenant Rome - and I am going into this arrest question because if Your Honor comes to the conclusion - I don't see how Your Honor can, but you can; lawyers sometimes differ with judges. That's why we have judges, to make the

decisions. But I think on the evidence that Your Honor will not believe that Culombe, when he was taken by three officers from his home a half an hour after Taborsky had gone into police headquarters, that he was an invited guest, because I asked Lieutenant Rome when we went into the Taborsky and Culombe ride that afternoon, and Lieutenant Rome insisted that they were invited to go, I said to Lieutenant Rome, "Supposing Taborsky had turned on his heels and said, 'Good bye, fellows; I'll see you later.' " What was Rome's answer? And this is significant as to whether or not they were in custody and under arrest. "I'd like to see him try it." That's in the record. Of course we know that's the situation, whether they were under arrest; they were in custody.

I'm not going to make too much about the drinking episode at all. I think it's unfortunate that it happened, for many reasons which we all understand. It probably had this to do with their confession, so-called, or statement, so-called - I come to this stage in the case, Your Honor, where I can only say "confession, so-called" and say "statement, so-called", because I am consistently claiming they are not my client's statements. - I don't think that the quart of whiskey had anything to do with the final signing in itself. I do think it was a pattern that the police were adopting in this case, all goodness and light in an effort to induce them, and there's nothing wrong with that sweetness and light to induce people to sign confessions. It's the force and promises and threats that make them inadmissible. If by patting people on the back and telling him "You're a great fellow", and "Will you have a little drink", so long as they don't get him drunk, or serving him chocolate cake or apple pie and ice cream, that wouldn't be wrong under the law. And after being treated so royally they said, "These are a pretty good bunch of fellows. We'll give them a break and sign what they want." Those con-

fessions would be properly obtained. But if they did give them enough liquor where the liquor affected them and they obtained statements from them, then, of coures, those statements would be inadmissible. They would be involuntary.

But I don't claim that that liquor made those men drunk so that they signed statements, unless it was pretty strong liquor where the effects lasted for five days. They had a hangover at the end of the five days but it wasn't from the effects of the liquor. It was, I think, from what they were going through. And when I say "what they were going through" I am trying to be as fair as I can, being a partisan in my position. What they were going through, naturally, was a charge of murder, which in itself is pressure enough. That's pressure itself.

And that in itself wasn't unlawful. That isn't even unlawful as an incident. But when they add an artificial situation that induces the bringing about of the statements, verbal or signed, then those statements are inadmissible. And for one moment I point out to the Court, do not let us lose sight that not only are our claims applicable to these signed pieces of paper - and that's what they are; I'm not even going to dignify them by calling them "statements" - signed pieces of paper drawn up by the State Police. These claims also apply to them, and there will be a motion made at the proper time to strike out any verbal statements of the accused because of the method in which they were obtained.

But what was done? What was done to the accused and what was refused the accused? - When I say "the accused" I am only talking of Culombe - in violation of their rights in an effort to get them to sign these pieces of paper?

In the first place, being in custody, and Culombe was - They call it "booked". I don't know whether it was

booking or not; at least he was in the State Police records. He was a prisoner. He wasn't an invited guest any longer, after a very short period of time. Let's face the fact. He was under arrest when he went on that tour, or went to Rocky Hill and Coventry. He was locked up in a cell all night. If they keep their guests in cells all night I don't think they'll have many voluntary guests in the future, especially under the housing conditions over there as shown by the evidence.

What did he want, right off the bat, to use a sidewalk expression in Court? He wanted a lawyer. He did say under cross examination that he wanted a certain lawyer, and he named him, the lawyer that the Court appointed finally. I was waiting for Mr. Bill to ask him, because he brought it out himself, Culombe did, in his cross examination, how he happened to use my name. The State could have found that out, and I don't think it would be too startling to find out how they happened to ask for me. I hope I haven't been wasting my time for over thirty-four years so that I am a complete stranger to people that get in trouble with the law.

He asked for a lawyer and he was entitled to a lawyer and he asked for a lawyer and named him, and even if he didn't name the lawyer they were bound to accord to him the right of doing what he could, because he was deprived of the use of a telephone. They went after his wife, Your Honor. They didn't tell his wife. The evidence doesn't show that they did, that "We've got your husband under arrest", and they brought her to the barracks every day; not just Tuesday night.

Lieutenant Rome or Sergeant Paige or anyone offered by the State did not take the witness stand and contradict Mrs. Culombe, who bore out the testimony of Culombe even to a greater extent than he testified about the number

of visits that she made to State Police headquarters. That isn't denied by the State and that's where the evidence stands today, and it's a full day and a half since she left the witness stand.

He asked for a lawyer on Saturday night. He was getting rough treatment. Your Honor will recall Culombe's testimony, on Saturday night he said, "If that's the way you operate up here I want to get in touch with a lawyer." Lieutenant Rome replied, "We'll let you get in touch with one at the right time." Is that respecting their legal rights? Or is it violating their legal rights If it happened it is a violation of their right to counsel. He was in their custody; he was locked in a cell; he was being taken from one room to another; he had no liberty to do anything whatsoever.

He couldn't use a telephone because the man cannot read or write. He couldn't use a telephone directory. They offered him nothing at all. "We'll let you get one at the right time." And they let him get one at the right time, after violating every right known to a citizen of this land - not only the State of Connecticut; of this land.

Oh, they had the thing pretty well in the bag, to use an everyday expression, from their standpoint. Then they brought him into this Court in the sorry state that Lieutenant Rome testified to, and a Judge of this Court, at his request - Lieutenant Rome didn't tell the Court; the State's Attorney didn't tell the Court, "this man has no lawyer. This man wants a lawyer." His Honor, Judge Bordon, inquired of him, "Do you want a lawyer?" That was five days and five nights after being taken into custody and held incommunicado. And if Your Honor will read his wife's testimony, she wasn't allowed to visit with her husband. She wasn't allowed to. And that's her testimony. She testified, and the record will show it, that she did not talk to

her husband in the barracks. She said that one night she saw him, she looked at him, but she did not talk with him.

He was deprived of legal counsel, and the mere fact that Sergeant Paige and Lieutenant Rome or anyone else takes this stand and says, "No, he didn't want a lawyer" - Why, the man almost talks of a lawyer in his sleep. Lawyer; lawyer, lawyer; all the way through, from the beginning right down until His Honor, Judge Bordon, appointed him.

In the New Britain Police Court his rights as a citizen were trampled upon.

Lieutenant Rome almost boasted on the witness stand of using our courts, to use his own words - not our courts - but using the New Britain Police Court - for the purposes of an investigation. Your Honor can check the transcript, and you will find that he used that term. I said to him: "Didn't you use the Prosecutor - didn't you use the New Britain Police Court for the purpose of your investigation?" and he said: "Yes, I guess I did" - and he almost bragged about it.

We have this statute - 195 (d) of the 1955 Supplement that provides for the purpose of assisting in a criminal investigation where an investigating authority believes a felony has been committed that a person can be charged, and the statute goes on to say, specifically protesting the rights of our people, as referred to by Judge Smith in his decision, and as referred to by numerous decisions in the United States Supreme Court, - that statute provides that the person so charged shall be brought promptly before some proper authority. Lieutenant Rome testified that Culombe on Saturday night, under that statute, was placed under arrest, and Sunday came, and Monday morning came, and they had him in the police barracks directly across the street from the Superior Court - directly across from the

entrance to this courtroom, with judges sitting in chambers, with the State s Attorney up here on the second floor, with the Hartford Police Court in session on Monday morning, with the New Britain Police Court in session on Monday morning. Did they arrest him? No, no, they didn't arrest him, they didn't arraign him. Was that a violation of his rights under our constitutional processes? We claim that it was.

Why were his rights violated? Why was he not brought before a proper authority that the statute dictates - the very statute they were proceeding under - the very statute they booked him under - the very statute he was being held under - commanding them to present him before a proper authority? They didn't do it, and those authorities were available.

This court wasn't in session, but judges of this court were available on a Monday in February of 1957. Even so, there was a criminal court in session in Hartford and a criminal session was sitting in New Britain, and with a crime they were investigating they didn't present him before any of those authorities that were available. Why did they deprive him of his constitutional rights so that they could produce State's Exhibit Z and the other exhibit - both marked for identification?

Those are two instances. We are going all the way down through the sixteen. It is taking time, but if they die they are going to be dead a long time. There are two instances. First, they are placed under arrest and demand counsel. I refer to Culombe. As a matter of fact, Lieutenant Rome admitted that on Saturday night Culombe demanded an attorney. He said he didn't name him. What a loophole to crawl through. These men that are performing their duty in the highest traditions of the department - the highest motives - requiring obediance of the law that commands

respect of the statutes? They violated it. That is number two. I would like the State's Attorney to answer those, and the State's Attorney can't answer them.

I want these answerd one by one: Why wasn't he arraigned in New Britain. Look at this Culombe Exhibit 3 for identification - the New Britain Police Department - Arthur Culombe - breach of the peach - this is Tuesday morning, the 26th - Monday morning, the 25th - 12:13 - by the testimony, he was taken to New Britain around nine o'clock in the morning. He was in the Detective Bureau, run through a mob scene, which police officers shouldn't allow. We can be grateful it is 1957. If this was a middle or southwestern community in 1908 and police officers allowed what was done to these men on the 25th, they wouldn't have had a trial. They walked him through a mob. They were not responsible for the mob; they had to get them into the court, but they didn't have to take them to the New Britain Detective Bureau. The record shows that the Detective Bureau is in a different building from police headquarters and where the courtroom is located. They kept them in that bureau being photographed by flashlight photographers, sat there in a room with a mob around them, and they were then brought over to the Identification Bureau and then booked at 12:15 - noontime. They should have been brought into that police headquarters building when they arrived in New Britain at 9:00 o'clock. I don't believe the State's Attorney will dispute me when I say they meet in these courts at 9:00 o'clock. It was Monday morning, and we all know they have Monday morning sessions in any police court in a city of that size. It was their duty to bring them before that police court in New Britain. Instead of that they were run through this mob scene and then brought in and booked at noontime - brought to the Identification Bureau and brought to the Prose-

cutor's office first for pictures. That is how their rights were violated down there.

Then what happened? No counsel. They were not arraigned before the court. Why was that done - they were not arraigned? It was done to induce the signing of those pieces of paper that are offered in evidence. If those two things were done and if they were illegal - or anything that wasn't done that was illegal - such as presenting them before a court when they had the time and the place and the opportunity to use the place, their rights were violated. Neither of those were done. No lawyer - not brought before a court. Those things were done for the allowing of these pieces of paper to be obtained as confessions. Are they sufficient to exclude those pices of paper? I say they are.

The State will say that all that is insignificant, as the State is accustomed to saying when the rights of an accused are violated. We will add something to it. They brought them back to Hartford. They didn't have them arraigned before any court. They didn't have any verbal statement from Culombe. He asked for a lawyer Saturday night. They accused him all day Sunday. He said nothing, so they bothered his wife, and as she said here, they tried to give her the third degree, and you remember what she said - "Don't pull that on me or I'll scream the building down". After a couple of hours they let her go. Is there any reason to disbelieve Mrs. Culombe? If Your Honor disbelieves her, that's out the window. If Your Honor believes her, it is very much in the picture. I say this for one reason. That woman had to be forced into this courtroom, as Your Honor well knows. She has two little children; she is heartsick and broken over this case. A subpoena was served on her which she refused to obey, and a capias had to be served on her. As she testified, the first time she talked to me in this courtroom before she took the stand. The State Police would have you believe she came down here to see her

husband. She said she was dragged down. Why did they do those things? To get these statements.

All right. They brought them back to Hartford. They had quite a session on Tuesday. Why was everything done on Tuesday? There were two objectives in view: State's Exhibit Z and State's Exhibit - the one obtained by Officer Fersch. Tuesday afternoon he was questioned time and time again. No, that was Monday afternoon.

They make light of these things about the Captain's Chair. There is nothing to be made light of there in any case involving the life of a human being. That wasn't dreamed up by Culombe. He testified that Lieutenant Rome, after questioning and not getting any satisfactory statement from him - and again Culombe asking for a lawyer one Monday night, said to the officers - and no officers have been here to deny it - the only thing we have is Lieutenant Rome's denial - "Take him downstairs and put him in the Captain's Chair". That was a creation put in the mind of Culombe by Lieutenant Rome for the purpose of terrifying him. Culombe thought it was some instrument of torture. He was locked up all night, and Tuesday morning he was brought to New Britain.

I don't want to comment on courts, Your Honor, but Your Honor can draw his own conclusions. What happened in New Britain Police Court on Tuesday morning, the 25th of February - the 26th? I can't believe that it happened in a Connecticut court, but we know it did. We know about the rules about cameras in court. The television companies have tried through judges and through the chief justice to get permission for TV performances in court, and we have consistently not allowed cameras of any kind in our court-rooms. That was a three-ring circus over there in New Britain. It was practically admitted by Lieutenant Rome. I am amazed that the court officials were not here to deny

or answer the claim made by Culombe and admitted by Lieutenant Rome, who was using that court for the purpose of his investigation.

They were brought in there on Tuesday and placed in a pen in the courtroom that was being so handled that Taborsky couldn't even hear what was going on. That was his testimony today. Culombe testified he couldn't even see the judge's bench. The judge's bench was across the room from the prisoner's pen. There were crowds of people around him, photographers taking his picture. He did not see the judge come on the bench. The record shows a plea of not guilty entered. There never was any such plea entered. The testimony here is that there was no plea entered. No man has ever had his constitutional rights trampled on as this man has in this case. This was just another method used to obtain these statements by coercion, and I am amazed that such a thing was done.

Imagine being tried - being presented in a court room where you are not even allowed to see the trier on the bench because of a mob that was allowed in the courtroom. Imagine when a clerk doesn't even put him to the plea of guilty or not guilty. Imagine, when a continuance is asked for by a police officer and not counsel for the state or accused, and the continuance is granted. Police courts are just as much courts of law as the Supreme Court of the State of Connecticut. They are merely on a different level. But it is a court. In that police court the record shows the rights of Culombe were trampled on absolutely. Why was that done? He hadn't made any statement, verbal or written. They were starting to work on him and they wanted more time to work on him. The police court tried to show the face of legality, so they continued the case until a further day and issued a mittimus. A mittimus means something in our law. If this court issues a mittimus commiting a man to a place, it means a great deal. I was talking to Judge

Devlin early last evening on the street, and for the sake of illustration, I recalled a case by a remark he made. In a murder case in New Haven in 1945, where the police were adopting the same methods as in this case - using the courts. That's what the State Police did in this case. They didn't even know where he was. I knew he was under arrest but not at headquarters. Judge Devlin was on the bench in the New Haven Police Court, and I called his attention to it and he had him brought over. Judge Devlin committed him on a mittimus and that ended the police investigation. That man is alive today and walking around. The New Britain Police Court didn't do that. The New Haven mittimus was respected. The New Britain mittimus was trampled on by the State Police in working out the means by which the State's Attorney's office offers this statement. A legal process was trampled on by Lieutenant Rome, and I won't say it was willingly assented to by the court authorities, but they went along with it, and are subject to that criticism. When they are given a prisoner to keep, they ought to respect the orders of this court. But they put him out and the State Police got him again and worked him over some more.

Imagine any human being being subjected to that - five days and five nights - no lawyer, and not being allowed to see the judge of the court he appears before - not being allowed to be presented properly before the proper authority - being threatened, kicked and maligned and not breaking down, and as he testified to - saying to Lieutenant Rome, "It's pretty low when they use a man's wife and little children - and a sick child to obtain a statement" - that they offer in evidence as a voluntary statement.

Mrs. Culombe figures strongly in this picture. She was brought to police headquarters, the record will show. We observed her on the witness stand. She said to the State Police, "I'll scream the walls of this building down". We

can believe Culombe's statement that he heard his wife's statement - heard her in the other room. And it is quite probable, to put it conservatively, that Culombe, wishing to spare his wife and children any more than what they had gone through, with the physical treatment he was going through, I don't think he was making up a story to the guard Malley. The guard testified that when he was brought into the jail Tuesday night under the mittimus, that he said he had been worked over and kicked by the State Police. Of course, these situations are hard to handle. These men are despised; no one wants to help them - everyone is against them. The only ones not against them is this court and the officers assigned by this court to defend them. Malley didn't want to testify to what Culombe told him. When I asked him on examination whether Culombe made any statement to him, he first answered no and stuck by it until I asked him, and Your Honor permitted me over objection: "Didn't you tell me certain things that Culombe told you Monday afternoon - didn't you tell me what he said?" and he said, "Yes", and then he told about Culombe telling him about the beating.

Now we can come to Judge O'Sullivan's dissenting opinion, and that should apply in this case: "No matter how evil an individual may be, he is entitled to insist that, if he is to be convicted, the verdict shall be reached upon proper and adequate instructions from the court". And that means proper conduct of the people.

Now, this man was abused, Your Honor. There is no question about that. Culombe couldn't dream up all these things. Is his confession free of the taint of these claims? Why did it take five days and five nights - Saturday afternoon, Saturday night, Monday, Tuesday, Wednesday - every one of them - day and night - why? Many confessions have been excluded for questioning over that period of time and a much shorter period - constant questioning by

the police - constant interrogation. If a man is merely placed under arrest and a charge made and left confined to a cell in the County Jail, and two or three weeks later you call him in and he makes a confession, that does not subject itself to a taint that occurs in this case, because there was constant interrogation while he was in the custody of the police.

I will say in closing, if it please the Court, and I am taking longer than I expected, I think this confession, in the first place, is inadmissible on the statement of the accused. Secondly, if Your Honor considers it was not obtained under physical force, it was obtained by mental coercion, the coercion consisting of constant interrogation day and night and the influence they brought to bear - the improper influence of the use of Mrs. Culombe and the two children when he was being interrogated and the actions of the Connecticut State Police toward him.

I respectfully ask Your Honor to exclude the offered exhibits.

THE COURT: Mr. Burke?

MR. BURKE: Does Your Honor intend to continue beyond five o'clock?

THE COURT: How much time do you think you need?

MR. BURKE: I would think thirty minutes at least.

THE COURT: How much time do you need, Mr. Bill?

MR. BILL: I have to answer both of them. It might take half an hour.

THE COURT: You tell me you have an important engagement Monday, Mr. Burke?

MR. BURKE: Yes, Your Honor, in the District Court in New Haven, at ten-fifteen. I would think we could take this up on Tuesday morning and use an hour or a little more.

THE COURT: An hour for both of you?

MR. BURKE: I don't think I will take much longer than half an hour.

MR. BILL: And I won't.

THE COURT: All right. Escort the accused from the courtroom.

Adjourn court, Sheriff, until Tuesday morning at ten o'clock.

(Adjournment at 4:50 P.M.)

* * * * *

JUNE 18, 1957. 11:40 A.M.

(Accused present)

THE COURT: I will make a finding that the confessions are voluntary and that they were not induced either by threats or fears, or promises, and that there was no coercion used in obtaining them.

I also make a finding that the detention of the accused, which certainly was illegal, in the Court's opinion, in so far as the so-called borrowing from the jail is concerned, had no causal connection with the giving or signing of the statements setforth in Exhibit Z for identification, Exhibit EE for identification and Exhibit DD for identification. You may call the jury, Sheriff.

MR. McDONOUGH: May I have an exception, Your Honor, for Culombe?

THE COURT: Surely.

MR. BURKE: May the records show that we seek an exception to Your Honor's ruling?

* * * * *

MR. BURKE: I assume the State will now proceed to put in the confessions, and in the confession of Culombe there are many references to Taborsky, and as I read the cases I think the law is clear that such evidence is not admissible against Taborsky.

THE COURT: That's right.

MR. BURKE: I am afraid that a mere statement to the jury by the Court to ignore such evidence would have little or no effect, and I would ask that something be done physically to strike out from the Culombe statement those references to Taborsky.

THE COURT: What does the State have to say?

MR. BILL: Just a minute, Your Honor. I haven't studied the situation.

THE COURT: I just finished reading them.

MR. BILL: With that in mind I haven't studied it. If we could have some time to examine it in relation to that situation I might have something to recommend, or not. I don't know.

THE COURT: The Court would indicate its own attitude. If this can be done and counsel can agree to it,

it would meet with the Court's approval and I am not going to talk about the feasibility. You gentlemen are experienced lawyers and you know whether such can be done or not. It would seem to me that it is not a matter that would require too much time to determine whether or not something can be done. If you determine something can be done and it needs a little more time, if you will notify me I will be perfectly willing to extend whatever time is necessary to do it. On the other hand for the moment I will take a short recess in order to allow you to determine whether or not that can be done.

MR. BURKE: Thank you, Your Honor.

THE COURT: The accused may be escorted from the courtroom. And while I take a short recess I will expect you gentlemen to notify me whether or not you feel that something can be done or can't be done, and secondly, whether you need more time to do it.

MR. BURKE: Thank you.

THE COURT: Short recess, Sheriff.

(Recess 11:50 A.M. to 12:20 P.M.)

THE COURT: Bring up the accused, Sheriff.

(The accused present)

(Jury and alternates not present)

THE COURT: Mr. Bill, is there something to be said for the record before I call the jury?

MR. BILL: Well, the recess was taken, Your Honor, for the purpose of Mr. Burke and I getting together with the possibility of eliminating certain matters that Mr.

Burke suggested from the various confessions - that is, from the two Culombe confessions. We did discuss the matter, and then it was thought that Mr. McDonough might have some ideas on behalf of his own client as to the statement itself and any possibility of making any alterations or eliminations. I think that I am correct in quoting Mr. McDonough that he wants the two Culombe statements to stand as they are without any eliminations, and I would take it that with that in mind that there is no sense in any further conferences between Mr. Burke and myself. I believe Mr. McDonough will bear out what I have said. I would suppose with his objection we are going ahead now and complete the State's case.

THE COURT: Correct Mr. McDonough?

MR McDONOUGH: I will agree that Mr. Bill has correctly stated the situation to the Court. I would object to having any parts of Culombe's statements deleted.

THE COURT: Mr. Burke?

MR. BURKE: I wish to, on the record, Your Honor, state that I object to the introduction of these statements to the jury, of Culombe, because they implicate and also name Joseph Taborsky. That, I say, is prejudicial.

That evidence, as Your Honor will agree, is inadmissible against Taborsky, but I say that it will prejudicial to the jury and to our case and to my client to permit them to see it, and I say that it is physically possible to eliminate from the statement the name of Taborsky and to eliminate physically those portions in which Culombe quotes Taborsky. And I say, too, for the record that the mere statement by the Court - and I know that the Court will be fair and more than fair in informing the jury that they should not pay any attention to this or to use it in any way against Taborsky, but I don't think that

that is practical. I don't think that it can be washed from the jury's mind, and I want the record to show that I object to it because it is prejudicial and hearsay testimony against Taborsky.

THE COURT: Very well. Call the jury, sheriff, and the alternates.

MR. BURKE: Your Honor hasn't ruled, has he, on whether or not it is going in?

THE COURT: I ruled that I would. I not only did that, Mr. Burke, but you took your exception and it was noted.

MR. BURKE: Thank you, Your Honor.

(Jury and alternates present)

THE COURT: I wish I could say "good morning" to you, ladies and gentlemen of the jury. Sometimes that isn't possible, but I trust you will understand. You may proceed, Mr. Bill.

MR. BILL: Sergeant Paige.

DONALD PAIGE, having been previously sworn was recalled and testified as follows:

MR. BILL: With the permission of the Court I would like to read the transcript wherein Sergeant Paige testified to the jury, just before the proceedings were closed in front of the jury, and I think that that will bring the jury to date, and also the witness.

THE COURT: No objection to that, I take it.

MR. McDONOUGH: No, Your Honor.

THE COURT: You may proceed, Mr. Bill. How about you?

MR. BURKE: I am sorry, Mr. Bill. I wasn't listening.

THE COURT: I will have it read.

(Statement of Mr. Bill read by reporter)

MR. BURKE: I have no objection.

THE COURT: You may proceed, Mr. Bill.

MR. BILL: The transcript, page 536, reads as follows:

"THE COURT: Sergeant Paige has been sworn. Sit down, Sergeant.

"DIRECT EXAMINATION BY MR. BILL:

"Q. Sergeant, on Wednesday, February 27th, whether or not you investigated this case further? "A. Yes, sir.

"Q. And whether or not you had a conference with Culombe that day? "A. Yes, sir.

"Q. And where was it? "A. In the State Police Headquarters.

"Q. And about what time? "A. At 1:30 P.M.

"Q. And was there anybody else with you other than Culombe? "A. Not at first. After a short while Detective Murphy was with me, and later Lieutenant Rome.

"Q. And what matters did you discuss with Culombe at that time?

"MR. McDONOUGH: This is the 23rd, Mr. Bill?

"MR. BILL: The 27th. Wednesday the 27th.

"A. We were asking his cooperation in regards to locating some guns, and so forth.

"MR. McDONOUGH: May I have that question read, Your Honor?

"THE COURT: Surely. Read the question and the answer, Mr. Burke.

"(Last question and answer read by reporter)

"MR. McDONOUGH: Thank you.

"THE COURT: Go ahead, Mr. Bill.

"Q. Were you investigating all these various matters that we have spoken of here, including the New Britain matter? "A. Yes, sir.

"Q. And did there come a time when he made a statement? "A. Yes, sir.

"MR. BILL: At this point, Your Honor.

"THE COURT: All right."

Then the Court advised the jury that the jury would retire, and I would like now to continue on, Your Honor.

THE COURT: Very well.

Q. Sergeant, as I understand, on this Wednesday afternoon, the 27th of February, you were alone with Culombe when this conference started? A. Yes, sir.

Q. And will you tell the Court what happened, picking up from where you heard me read from the record?

A. Culombe and I sat down and I talked to him about the lying that he had done to us up until this time,

and he agreed that he had lied. I asked him rather than lie to me, when I asked him a question, to say "I don't want to talk about it," and he stated that he would do so. I then took the paper that we had and I read over several incidents to him and asked him if he was there, and to some he would say "I don't want to talk about it," to others he would say "I wasn't there."

I asked him if on December 15th, 1956, at six p.m. I described the New Britain affair where Kurpiewski and Janowski were shot at Stanley Street at Kurp's gas station at that date, about six p.m. and when I finished I asked him if he had been there, and he stated that he didn't want to talk about it.

I called in Detective Murphy shortly after, and Murphy went through the same list with him and accused him of being involved in this New Britain affair, and asked him for his cooperation. About that time I received some information. As a result of this information I asked him if we would find the guns in back of his home, as he had been seen walking around the woods there, and I asked him if we would find the guns in the brook. At first he said that he didn't want to talk about it, in answer to my question and then he said in order to save us some trouble that we would not find them there.

We then requested his assistance in cleaning up this case and he finally admitted that we were looking for four guns, two of which would be under water, that we were looking for two men, and he stated that he himself had not done any killing. He also answered a question that Detective Murphy put to him in regards to any fear that he might have had of Mr. Taborsky, and he said he wasn't in fear of him, that he had been threatened by him.

MR. BURKE: Your Honor, I object to that statement and move that it be stricken as hearsay and the jury ordered to disregard it.

THE COURT: As far as the case of State vs. Taborsky is concerned, the motion is granted. As far as the case of State vs. Culombe is concerned, it is in evidence and I will instruct the jury that what Mr. Burke has now objected to is in the evidence and is to be considered by you, together with all the evidence as you see fit, in connection only with the case of State vs. Culombe, and it is to be entirely eliminated in your consideration of State vs. Joseph Taborsky. You may proceed.

Q. Proceed, will you, Sergeant, please? A. Mr. Culombe finally agreed to show us where he had the guns, and accompanied by Detective Murphy, Lieutenant Rome, Detective O'Brien, we drove over to the Culombe home where he said that we would find a gun. On the way to the Culombe home, which is at 20 Coleman Drive, Arthur was questioned by Lieutenant Rome and he gave him some of the facts in regards to the New Britain killings. When we got to the Culombe home we went into the bathroom and Arthur showed how to take out a medicine chest, and in back of this medicine chest was a brief case which contained a gun and a couple of blackjacks. He also opened up the safe in the bedroom at that time and Lieutenant Rome was able to get out of a small box a couple of grips, and I observed him take a couple of other items that belonged to a gun.

After we left the Culombe home we went to Dexter Street. He directed us to Dexter Street where there are two ponds. In one he stated that we would find the two guns which he had thrown in and which had been used in the New Britain case. In the other he said that we would find a coat, which I believe at that time he said Taborsky had worn, and which he had thrown away because there was blood on it.

MR. BURKE: Objected to on behalf of Taborsky, the same objection.

THE COURT: I will grant your motion. It may be

stricken out as far as the Taborsky case is concerned. The jury will disregard that statement about Joseph Taborsky. It is admitted in State vs. Culombe. Go right ahead.

A. (continued) Detective Murphy was able to pull this coat out of the second pond. It was all wrapped up in a bundle and by standing on something that was in the water he was able to pull it out with a stick, and Culombe's name was on this coat. When we took that in our possession we went back to Culombe's home, and in the cellar, under a large case or box, which was very heavy, that we had lifted up and had rollers there to lift it up with, we found another package which had another gun in it, but this one was all cut up with a grinding machine.

He then directed us to Chandler Street, where there is another brook, and stated that the wallets that were taken on the New Britain job had been thrown in there, along with some other items. We did a little searching there but we couldn't find anything at that time, and from there we went over to Hymie Borden's garage on North Main Street, here in Hartford, where he showed us a 1949 Oldsmobile which he said was the car that had been used at the time that they held up this place in New Britain. After that we came back to the barracks.

Q. Now, what time was that when you returned and reached the barracks? A. I believe that it was after six sometime.

Q. And did anything take place then and there, or did you have dinner, or what happened? A. Culombe was brought in by Lieutenant Rome, into the room where the Commissioner and Commissioner Kelly and Reimer were sitting.

Q. What took place there? A. I believed he repeated some of the story in front of the Major and the

Commissioner, but I left the room before the entire thing was completed.

Q. And then again did you join up with Culombe or have a conference with him later? A. Later that evening.

Q. And when was that? A. We started to talk formally around eight o'clock or a little before that.

Q. At Police Headquarters? A. Yes, sir.

Q. Who was present? A. Lieutenant Rome, Detective O'Brien, County Detective Matus and myself.

Q. And what took place at that time? A. He gave us a statement in which he described the holdup and killings at New Britain.

Q. Did you witness this statement? A. Yes, sir, I did.

Q. Showing you State's Exhibit Z-1 for identification, do you recognize that? A. Yes, sir.

Q. Now, as what? A. This is the statement that Arthur Culombe gave us that evening at State Police Headquarters.

Q. Did he sign it? A. Yes, he did.

Q. In your presence? A. Yes, sir.

Q. Did you witness it? A. Yes, sir, I did.

Q. Who else witnessed it? A. Samuel Rome, Vincent J. O'Brien and Edward Matus.

Q. And in this statement was there some other incident other than the New Britain affair? A. Yes, sir.

Q. Now, we are not concerned with that matter, but I again show you State's Exhibit Z-1 and ask you to

look at the part about the New Britain incident and read that over.

THE COURT: To yourself.

Q. To yourself. A. Yes, sir.

Q. Now, was that statement - that is in its entirety read to Culombe? A. Yes.

Q. Before he signed it? A. Yes, it was.

Q. That part you just read yourself was about the New Britain incident? A. Yes.

Q. And is that a true transcript as you remember of what was read there and he signed? A. Yes, sir, that was read to him.

Q. Now, I ask you to look at State's Exhibit Z for identification, and will you look over that and I would like to question you later after you have read it to yourself. Have you read it? A. Yes, sir.

Q. Do you find that that State's Exhibit Z you just last read corresponds with the New Britain narration of the New Britain incident in State's Exhibit Z-1? A. Yes, sir, it does.

Q. And is that State's Exhibit Z for identification as you heard Culombe tell the story and was signed by him? A. Yes, sir, that is right, the body of it.

Q. What was the distinction between State's Exhibit Z which you just last read and the first one, Z-1 - could I suggest, is it the elements of the other incident? A. Yes, sir, and added in this here is the fact that he was born in Fall River, and so forth - little personal histories in this one that aren't in that.

Q. But the main feature of the statement, is it not, that the incident that took place in New Britain in Z-1 is eliminated from Z? A. That is right.

MR. BILL: Your witness.

MR. McDONOUGH: No questions.

THE COURT: Do you have any questions, Mr. Burke?

MR. BURKE: No.

(Witness excused.)

ROBERT MURPHY, previously sworn, recalled as a witness for the State.

DIRECT EXAMINATION BY MR. LABELLE:

Q. Sergeant, you are a member of the State Police Department? A. Yes, sir.

Q. How long have you been a member of that Department? A. Seventeen years.

Q. You are a Detective, are you, rather than a Sergeant, is that right? A. Yes, sir.

Q. In your capacity as a State Police Officer did you participate in the investigation concerning the shooting at Kurp's gas station in New Britain? A. Yes.

Q. Which occurred on December 15 last year? A. Yes, sir.

Q. When did you make your investigation with reference to that? A. Monday afternoon, February 27, 2:45 P.M.

Q. Where did you start that investigation? A. On the third floor of the State Police quarters here in Hartford.

Q. Is that the first time you had anything to do with this New Britain affair? A. That is correct.

Q. Do you recall what room you were in where the investigation you participated in commenced? A. Yes, sir.

Q. In what room was it? A. A room known as the interrogation room.

Q. Who was present in that room? A. At that time Arthur Culombe, Detective Sergeant Paige and I.

Q. When you went into the interrogation room what was the first thing you did in conducting the investigation?

A. My first conversation was with Arthur Culombe. We were going over a list of incidents and included on this sheet of paper, or this list, was the holdup of Kurp's gas station in New Britain. In going over that list he would give me one of two answers. He would say he did not want to talk about it when certain incidents were read, and on other cases he would say, "I know nothing about it." This was in line with the questioning that was taking place between he and Sergeant Paige in my presence when I first entered the room.

Q. Now, were you alone with Culombe at anytime?
A. I was.

Q. Would that be just you and Culombe in the room?
A. Yes, that is correct.

Q. Did something occur while you and Culombe were alone together in this room? A. Yes.

Q. Tell the Court and jury what happened at that time? A. I asked Arthur why he did not cooperate, and he told me it was a hard decision to make. I then started to talk with him about weapons, guns, and I questioned him as to guns. I asked him if we were to find the guns how many we would find, and he said four. I then asked him if we were to find the guns would we find them on land or in water and he said in water. I then asked him if we would find the guns together, and he said no, they would be in different locations. I then asked him if it would be necessary to grapple for the guns and he said no, the water wasn't that deep.

Q. Did that complete your discussion concerning weapons? A. Yes, sir, as far as I remember.

Q. Was Sergeant Paige in the room at that time or had he come back into the room? A. Yes, sir, I believe Sergeant Paige came into the room while we were discussing guns.

Q. What was the next conversation that took place in the room with Culombe? A. I asked him how he would like to have us find the guns and he said he would like us to find them by accident. He didn't want it to be known he had pointed out the location of the guns to us.

THE COURT: I think we will stop here, Mr. LaBelle. You may escort the accused from the room.

Ladies and gentlemen, I am going to allow you to go to lunch now and I have to give you the usual instructions. You will not talk with anyone about this case or allow anyone to talk to you about it. If you are looking at the papers you will not read anything about this case, or if anything is on the radio or television, you will ignore it, and when you come back at two o'clock you will report to your jury rooms and the alternates will report to theirs. You may now retire.

Recess, Sheriff, until two o'clock.

(Recess at 12:53 P.M.)

JUNE 18th, 1957 - 2:00 P.M.

THE COURT: Bring up the accused, Sheriff.

(Accused present)

THE COURT: May I have the jury, please, Sheriff, and the alternates.

(Jury and alternates present)

THE COURT: Are you going forward with Detective Murphy, Mr. LaBelle?

MR. LABELLE: I may, Your Honor.

THE COURT: You may proceed whenever you are ready, Mr. LaBelle.

ROBERT MURPHY, on the witness stand.

DIRECT EXAMINATION BY MR. LABELLE: (RESUMED)

MR. LABELLE: May I have the last question, Your Honor?

THE COURT: Surely. Read it, Mr. Burke.

(Last portion of answer read by reporter)

Q. Was there conversation about going to where the guns were located? A. That is correct there was.

Q. Was there any other conversation in this room before you left to go where they were located?
A. Yes, there was.

Q. What was that conversation? A. Just prior to our leaving, he stated that he didn't want it to be known how we had come to find out the location of the guns. He further stated that he was in fear of Taborsky-

MR. BURKE: Your Honor please, may that be stricken and the jury admonished that it has no connection whatsoever and should not be regarded in the Taborsky case.

THE COURT: The motion may be granted. The jury will disregard entirely the last statement in so far as it applies to the Taborsky case. It is limited strictly to the Culombe case. Go right ahead, Detective. Had you finished?

THE WITNESS: Yes, sir, at present.

THE COURT: Go ahead, Mr. LaBelle.

Q. What happened after this conversation? A. We then had a discussion relative to the car that would be used in driving to the location of the guns.

Q. Tell us that conversation? A. Arthur did not want to travel in a marked police car. We assured him that the car that we would ride in would not be conspicuous, there would be no plates or writing on it. I believe it was directly after he was assured of this that Lieutenant Rome, Detective Sergeant Paige, Detective O'Brien, Arthur Culombe and I left State Police Headquarters.

Q. Did you all go in one vehicle? A. Yes, sir, we did.

Q. Who operated the vehicle when you left State Police Headquarters? A. Detective O'Brien.

Q. And where were you riding? A. I was riding in the front seat alongside of Detective O'Brien.

Q. Where were the rest of the parties in the car sitting? A. If I recall correctly Lieutenant Rome and Arthur Culombe were in the back seat, and I believe Sergeant Paige, Detective O'Brien and I were in the front seat.

Q. And that is when you left to go to where the guns were located? A. That is correct. That is when we left police headquarters.

Q. Where were you going to go? A. We were enroute to the home of Arthur Culombe.

Q. Did you continue in the same positions while you were in that car until you got to Culombe's home?
A. No, sir, we did not.

Q. Tell the Court and jury what happened?
A. After driving a distance of about three or four

city blocks I changed places with Detective O'Brien. That is, I got behind the wheel and Detective O'Brien took my position in the front seat.

Q. And was there some conversation in this motor vehicle in so far as Culombe was concerned? A. Yes, there was.

Q. Can you recall any of that conversation?

A. There was conversation between he and Lieutenant Rome - that is, between Arthur Culombe and Lieutenant Rome relative to the hold up of Kurp's gas station in New Britain, and other incidents

Q. Can you recall any specific conversation in so far as Culombe was concerned about Kurp's gas station, that occurred in that motor vehicle? A. Yes, sir, I recall some portions of it.

Q. Was a record made of that conversation, if you know? A. Yes, sir, I believe that there was.

Q. And who made that record? A. Detective O'Brien.

Q. Can you tell us the conversation so far as you can recall it, what happened, what occurred in the motor vehicle relative to Kurp's gas station? A. Arthur stated that on the evening of January 15th, or the evening of the severe ice storm, that he -

MR. BURKE: I object to this, Your Honor. I don't think that it is necessary that the witness implicate Taborsky.

THE COURT: I didn't hear him.

MR. BURKE: He said "and".

THE COURT: I didn't hear the a-n-d. Will you read it?

(Last answer read by reporter)

MR. BURKE: I stand corrected. I would hear you if he had said it, but I haven't heard anything yet. Continue with your conversation, Detective.

THE WITNESS: The next word will be "and", Your Honor.

THE COURT: Well, you heard it before it was said. Your desire is that any reference to Taborsky, or to anyone else, should not be said, is that correct?

MR. BURKE: Yes, Your Honor.

MR. McDONOUGH: May it please the Court - go ahead, Mr. Burke - I believe as long as this is being admitted against Culombe I want his entire statement in the record.

MR. BURKE: I say, Your Honor that it is prejudicial and it is also, as Your Honor has ruled before, this testimony regarding Taborsky is hearsay and not admissible against him.

THE COURT: That is right, and I shall so instruct the jury.

MR. BURKE: I say that it is prejudicial and in those cases where it is not necessary to name names, that the witness need not, because I believe that the admonition of the Court, as I stated before, isn't too effective.

THE COURT: You say that very respectfully, I know.

MR. BURKE: Very respectfully yes, Your Honor.

THE COURT: It is in accordance with our procedure. I'll have to let him testify and I will take whatever - I'll hear you on whatever claims that you want to make.

MR. BURKE: I object to it, and may I have an exception to Your Honor's ruling?

THE COURT: Oh, you certainly may although I don't know exactly how I have ruled yet, except that he may continue with the conversation.

MR. BURKE: What I am objecting to is the continuance of the conversation, the implication of my client before the jury when the evidence is inadmissible and hearsay. Now, where it is possible it might be cut out of the statement or it might be deleted in one way or another, but certainly in the oral telling of it the witness can just fail to name names.

THE COURT: I think that your position is clear, Mr. Burke. I will allow the testimony.

Q. Will you give us that conversation?

THE COURT: Go ahead.

A. He and Joseph Taborsky were in New Britain -

MR. BURKE: Excuse me, Your Honor, would you make the admonition to the jury at this time regarding this conversation?

THE COURT: Yes, I will tell you again, I may be telling you more than you need to be told, but in order that you may thoroughly understand it, any reference in this testimony of any statements made by Culombe are admissible against Culombe and you will have to dismiss them from your minds entirely in considering the case of State vs. Joseph Taborsky. I am giving you this admonition simply to remind you of the fact that the law does not allow you to consider it in reference to the case against Taborsky. I will also instruct you at some length, perhaps, in the charge, but I am doing this because Mr. Burke has requested it and he is entitled to request it. You may continue, Detective.

A. They were in an automobile together in New Britain, Culombe was driving the car, and they drove past Kurp's gas station. Taborsky told Culombe -

MR. BURKE: I am going to object again, Your Honor. In order to forestall the constant objection and the same ruling, may I have a general objection to these references to Taborsky, and an exception to the ruling?

THE COURT: Well, I will permit it. I do think that it is kind of frowned upon, a general objection, but I think that your position is clear and I think that the Court's position is clear. I can't say it too often, but it is clear that any statements made by Culombe are admissible against him, speaking generally, but they are not in any event admissible or evidence in any way in the companion case of State vs. Taborsky which is now being tried.

MR. BURKE: What I would like the record to show, Your Honor, is that I do object to the witness making these statements because of their prejudicial nature. I don't wish to be jumping up every two minutes and objecting and making a nuisance of myself, but I do want my objection in the record, and if I could obtain a general objection and have the ruling and the exception I would not bother the Court so much.

THE COURT: You have made your objection, the record will show what your position is and I think that the record will show what the Court's position is.

MR. BURKE: Thank you, Your Honor.

THE COURT: Now, do you want the question read and the answer as far as you went?

THE WITNESS: The answer as far as I went, Your Honor.

THE COURT: Will you read the answer as far as he went?

(Last answer read by reporter)

A. (continued) In a car being driven by Arthur

Culombe. A gas station was pointed out to Culombe by Taborsky and he was told to drive into it. They drove into the station and one of the two men entered the station, I believe the man was Taborsky. Culombe remained with the car to buy some gasoline. Arthur then said that Taborsky called the attendant into the station, and while he was outside he heard a gunshot. Shortly thereafter a customer drove into the station and there was a short conversation between Taborsky and Culombe and following this conversation Culombe took the customer into the gas station and shortly after he heard another shot. I believe that is all that I can recall relative to Kurp's gas station.

Q. Now, in your answer, Detective, you gave January 15th. Is that the correct date? A. No, sir, it isn't.

Q. What is the correct date that you are speaking of? A. December 15th.

Q. Now, was there a conversation in the venicle as to the location of these weapons? A. Yes, sir, there was.

Q. Can you give the Court and jury that conversation? A. Arthur stated that in his bathroom, behind or below the medicine chest, there was a leather bag that contained a weapon.

Q. Is that the only conversation concerning weapons, as to their location, that you heard in the car? A. That is correct.

Q. Now, did you go to Culombe's house at 20 Coleman Drive? A. Yes, we did.

Q. And when you got to 20 Coleman Drive what happened? A. We entered the apartment of Arthur Culombe, that is, Lieutenant Rome, Sergeant Paige, Detective O'Brien, two photographers and myself, and after going into the apartment I sat in the livingroom with Arthur, his young daughter and his wife.

Q. You said two photographers. What kind of photographers? Police photographer? A. Department photographers. State Police Department photographers.

Q. They were state police officers? A. That's correct, yes, sir.

Q. You said that you were in the livingroom with Mrs. Culombe and Arthur Culombe and their little girl? A. That is correct.

Q. And where were Lieutenant Rome and Culombe and the other officers at that time? Were they in the apartment? A. They were. They went into a room that was off of a hallway, which would be a very few steps from the livingroom.

Q. You did not go into that room? A. No, sir, I did not.

Q. Now, when you were in the livingroom was there any conversation that occurred in so far as Culombe was concerned, either with you or with his wife or with his daughter? A. Yes, sir, there was.

Q. Will you tell the Court and jury the conversation that occurred in the livingroom that you heard in so far as Culombe is concerned? A. Culombe told his wife that he had decided to cleanse his conscience and make a clean breast of things, and he had told us the true story. He also said that he might get life but that Taborsky would get the chair. He also told her that he was - he didn't want to cause her any further embarrassment, and that also was a reason for his cooperating with us, and there was also a conversation between he and his wife relative to the television set not working properly.

Q. Now, who else was in the room at that time? Were there any other persons in the livingroom where you were at the time that this conversation occurred?

Q. There may have been, but I can't recall seeing anyone other than Arthur and his wife and his small daughter.

Q. Now, did you remain in the livingroom with Mrs. Culombe and Culombe and the child until you left the apartment? A. That is correct. I did.

Q. And did you participate in any of the work in the apartment pertaining to weapons? A. No, sir, I did not.

Q. You were in the presence of Culombe at all times in the apartment? A. Yes, sir, I was.

Q. Was there any further conversation that you can recall between Culombe and his wife? A. Yes, there was another short conversation between he and his wife when he told his wife that he was afraid for her, he was afraid that Taborsky might attempt to do her harm, and that also was one of the reasons for his cooperating with the police.

Q. Is that all of the conversation so far as Culombe and his wife are concerned? A. As far as I can recall, yes, sir.

Q. Now, did you subsequently leave the apartment? A. Yes, sir, we did.

Q. And who went with you when you left the apartment? A. The same group, Lieutenant Rome, Sergeant Paige, Detective O'Brien, the two state police photographers, Arthur Culombe and I.

Q. Where did you go? A. We were directed by Arthur Culombe to a swampy area at the corner of Newfield Avenue and Dexter Street.

Q. And did you go there? A. Yes, sir, we did.

Q. When you got to that location what occurred?

A. Arthur pointed out a spot to us in this swampy area and stated we would find two guns that he had disposed of in this marsh, that these guns were used in the New Britain affair.

Q. And he made this identification of the location in front of the entire party? A. That is correct.

Q. Was anything done at that time in an attempt to find the weapons? A. No, there was not.

Q. Did anything else occur at this location? A. No, not that I recall.

Q. Where did you go from Dexter Street and Newfield Avenue? A. We were then directed to a dump that had been flooded at the corner of Dexter and Reed Streets.

Q. What occurred at that location? A. At the dump he pointed out an object that was floating in the water and stated that that was a raincoat that had been disposed of by him and that had been worn during the holdup of Kurp's gas station and that it was splattered with blood.

Q. Did he point out the location where that coat might be? A. Yes, sir, he pointed directly to the coat.

Q. And what did you do when he did that? A. I took possession of it by use of a long pole from the edge of the bank.

Q. You got the coat out of the water? A. Yes, sir, I did.

MR. LABELLE: Doctor Stolman, do you have a coat?

Q. I show you that, Detective, and ask you if you can identify that? A. Yes, sir, I can.

Q. What is it? A. This is a coat that was pointed out to me by Arthur Culombe in the dump at the corner of Reed Avenue and Dexter Street.

Q. Is that the coat you got out of the water by, as you said, using a stick? A. That's correct.

Q. How do you identify that coat now? A. Underneath the collar appears the name of "A. Culombe", along with the serial number 16594.

Q. Is that the coat and the identification that was on the coat that you got out of this dump? A. That is correct.

Q. What did you do with that coat after you got it from the dump? A. I placed it in the trunk of the State Police car I was driving and later on that afternoon I placed it in the evidence locker at the Special Services room in State Police Headquarters.

Q. Over in the State Police barracks here on Washington Street? A. That is correct.

Q. Were you present when the coat was taken from the evidence locker at the Police barracks? A. Yes, sir.

Q. What happened to the coat when it was taken from the evidence locker? A. Lieutenant Rome delivered it to Officer Kingston to be taken to the State Laboratory.

Q. Were you present when it was turned over to Officer Kingston? A. Yes.

Q. And Lieutenant Rome was there also? A. Yes.

Q. Do you know whether or not Officer Kingston took the coat to the State Laboratory? A. Yes, sir.

Q. Did you go with him? A. No, sir.

Q. But you were present when it was delivered over to him? A. That is correct.

Q. Did anything else happen at the location down there on Reed and Newfield Street? A. Not that I recall, no, sir.

Q. Where did you go after you left that area?
A. We went back to the cellar of Arthur Culombe's home.

Q. That is, the entire party returned to Arthur Culombe's home? A. That is correct, yes.

Q. Did you go up into the upper apartment? A. No, sir, we went down in the cellar.

Q. What happened in the cellar? A. In the cellar he pointed out a large cabinet and told us that underneath the cabinet we would find a weapon.

Q. Was the weapon located under the cabinet?
A. Yes, sir.

Q. Tell the Court and Jury what happened in getting that weapon? A. There was a gun that had been ground on a grinding wheel, mutilated to a great extent, and it was wrapped in a paper bag.

Q. Was that taken into your possession or by one of the Officers? A. Yes, sir, it was - I believe it was taken by Sergeant Paige.

Q. Did anything else happen at Coleman Drive when you went back for this second visit? A. No, sir.

Q. Where did you go after you left Coleman Drive at this time? A. Arthur then directed us to Chandler Street to a culvert that runs beneath the street and pointed out a spot to us and said that in this area he had thrown or disposed of two wallets that were taken from victims at the New Britain gas station along with some keys, I believe.

Q. Did the Officers or you make a search of the area at that time? A. We did, we searched just a short period of time.

Q. Were you able to locate any of the articles you mentioned? A. No, sir, we did not.

Q. Where did you go when you left the culvert?
A. We then went to Borden's Garage on Main Street in Hartford.

Q. What happened at Borden's Garage? A. Parked in the rear of the garage was a car, and Arthur pointed this car out to us as being a car he owned and that he had driven the night of the New Britain gas station holdup.

Q. Do you recall what kind of a car it was? A. It was a black car. I now know it was a 1949 Oldsmobile.

Q. And that car he pointed out to you - it was in Borden's Garage? A. That's right.

Q. Did anything else occur at this Borden's Garage?
A. Not that I recall.

Q. Then where did you go from Borden's? A. We then returned to the State Police Headquarters where we went to the office of Major Reimer.

Q. What time did you return to State Police barracks, if you recollect? A. Just about six P.M.

Q. When you returned to State Police Headquarters what did you do as far as Culombe was concerned?
A. At the Major's office there was a short discussion between Commissioner Kelly and Major Reimer and Lieutenant Rome and Arthur Culombe.

Q. Was that a discussion that had to do with what had just happened on this trip? A. That is correct. Arthur, if I recall correctly, said that he was cooperating and intended to cooperate.

Q. Where did you go from the Commissioner's office?
A. We then went into the dining hall where we had our supper.

Q. Were you present with Culombe at that time?
A. Yes, sir, I was.

Q. Did you stay with him during the time you were at the dining hall? A. Yes, sir, I did.

Q. Where did you go when you left the dining hall? A. We went to the third floor office, if I recall correctly, to the Special Services' office on the third floor.

Q. Did you continue to stay with Culombe at that location in the building? A. No, sir, I did not.

Q. Did you participate any further in this investigation that followed? A. No, sir, I did not.

Q. Detective, in your testimony some time back you said that Culombe told you that he took the customer into the gas station that had driven into Kurp's station while he was there. I want to ask you if that is correct - I think you said Culombe said he took the customer inside the station. Is that what he told you? A. If I recall correctly, he did tell me that. However, there was, as I think back - there was a mixup in my mind as to who took who into the station, but I can recall him mentioning a two dollar bill to pay for the gasoline, and he stepped out with the car in order to have it serviced and made some attempt to service the customer's car.

Q. Do you recall what he said as to which one took the customer into the station? A. To the best of my recollection I believe he said he took the customer into the station.

MR. LABELLE: All right, - you may inquire.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. Detective, Culombe was very cooperative with the police Wednesday afternoon and Wednesday night so far as you know? A. Yes, sir.

Q. And when you were talking to him in the interrogation room before you went out on the trip you describe,

what did you say to Culombe? A. I asked Arthur why he didn't want to cooperate.

Q. Tell us the conversation. A. His response was that it was a big decision or a hard decision to make.

Q. Go ahead — what further did he say, if anything? A. Sometime later he mentioned being in fear of Taborsky.

MR BURKE: If Your Honor please, I am going to object to this. In the first place, this is self-serving to Culombe; in the second place it is a deliberate attempt to prejudice the jury against Taborsky, and even though Your Honor admonishes the jury, I don't think it is proper that it should be gone into at this time before the jury.

Now, I objected to this when hearing was before the Court, and I think it is inadmissible because I think it is prejudicial, and I think there is no other purpose to be served here except that of showing that Culombe was in fear or something of Taborsky.

THE COURT: As far as you are concerned, Mr. Burke, I will sustain your objection insofar as State versus Taborsky is concerned, and I will admonish the jury again that it has no bearing on the case of State against Taborsky and they are to disregard it entirely, but the question is being asked by Mr. McDonough and there is no objection by the State and I have nothing to base any ruling on. You may have an exception.

MR. BURKE: I would like to add this, I made a motion to separate in this case, and such statements as this are self-serving to Culombe and serve only to prejudice the interest of Taborsky.

THE COURT: The record will show your objection, Mr. Burke. Will you read the question, Mr. MacGlashan, and the answer as far as it went?

(The reporter read the question and answer.)

THE COURT: Go ahead.

THE WITNESS: He did say that Taborsky had threatened him after the New Britain job, as he termed it.

Q. What did he say Taborsky said? A. Taborsky said that he would kill him.

MR. BURKE: I object here again, Your Honor. What did Taborsky say? I don't know how this is at all proper at this time.

THE COURT: I will only rule as I have been ruling. I have sustained your objection insofar as Taborsky is concerned and I admonished the jury to disregard it - it has no part in your case whatsoever. Further than that under the present circumstances I have no other ruling to make.

MR. BURKE: May I have an exception?

THE COURT: Oh, surely.

Q. Will you go ahead, please? A. Arthur said that Taborsky has told him he would kill him if ever —

THE COURT: Sheriff, you will have to tell them to stop. Let me ask the jury, - did you all hear the answer? One of the gentlemen didn't.

MR. McDONOUGH: May the question and answer be read?

THE COURT: Yes, Mr. MacGlashan, and you speak up so that they can all hear you.

(The reporter read the last question and answer.)

THE COURT: Did you finish?

THE WITNESS: No, sir. —if he were to cooperate with the police.

Q. Now, referring to Culombe's conversation with his wife, what did he say about Taborsky? A. Culombe told his wife —

MR. BURKE: May the record show another objection on the same ground?

THE COURT: And the same ruling.

MR. BURKE: Exception.

THE COURT: Surely.

THE WITNESS: Culombe told his wife that he was afraid for her for fear Taborsky might do harm to her.

Q. Well, from that point on Culombe cooperated with the police and did everything he could to help in the investigation, so far as you know? A. Yes, sir.

MR. McDONOUGH: That is all.

THE COURT: Mr. Burke?

MR. BURKE: I don't know that I have a right to examine in the light of your ruling, Your Honor, in that nothing that this man said has anything to do with the case.

THE COURT: That is right, but do you think there is any need to examine? All the evidence was ordered to be stricken from your case and I have instructed the jury to disregard it and do so again.

MR. BURKE: There hasn't been any evidence, Your Honor, introduced in my case.

THE COURT: I agree.

MR. BURKE: My objection is clear to the Court that it has been prejudicial here in the eyes and the ears of the jury as to my case.

THE COURT: Yes, I understand.

MR. LABELLE: May the raincoat be marked, Your Honor?

THE COURT: What about that tag?

MR. LABELLE: I will ask about the tag.

Q. Detective, what is this tag attached to this exhibit?
A. We call that an evidence tag describing where it was found, the date, and so forth.

Q. Did you have anything to do with making out this tag? A. Yes, sir, I was present when it was made out.

Q. Do you know who made it out? A. Lieutenant Rome made out that tag.

Q. And was it attached to this exhibit - when?
A. On the 27th - on the evening of the 27th, the day it was found.

Q. Is that the evening of the day you returned to the barracks? A. That is correct.

Q. And that was the same day it was put in the evidence box? A. That is correct.

THE COURT: It may stay on.

Mark it for identification's FF.

(State's Exhibit FF for identification: Raincoat.)

REDIRECT EXAMINATION BY MR. LABELLE:

Q. Did you have any conversation with Arthur Culombe when you found this raincoat as to who was wearing it and when?

THE COURT: Yes or no would be the answer.
A. Yes, sir.

Q. Would you give us that conversation?
A. Arthur said that Joseph Taborsky had worn this coat on the evening of the holdup of Kurp's gas station.

MR. BURKE: May I object to that, Your Honor?

THE COURT: Sure, the same ruling. The jury will disregard it so far as Taborsky is concerned. Anything further, Mr. McDonough?

MR. McDONOUGH: No, Your Honor.

(Witness excused.)

VINCENT J. O'BRIEN, previously sworn, recalled as a witness for the State.

DIRECT EXAMINATION BY MR. BILL:

Q. You are a member of the State Police Department? A. Yes, sir.

Q. How long have you been a member? A. Ten years.

Q. What rank have you? A. Detective.

Q. Are you skilled in stenography and typewriting? A. Yes, sir.

Q. Have you studied a course and done work along those lines for several years? A. Yes, sir.

Q. And you are trained in it? A. Yes, sir.

Q. Now, on Wednesday, late afternoon, February 27, did you take part in this investigation concerning Arthur Culombe at State Police Headquarters? A. Yes, sir.

Q. And when did you enter the case on that particular day? A. At about three-thirty in the afternoon.

Q. And where? A. At Special Services Division, State Police Headquarters.

Q. Who was present in the room when you entered? A. Lieutenant Rome, Sergeant Paige, Detective Murphy and Arthur Culombe.

Q. How long did you stay there? A. Just a matter of a few minutes.

Q. Had you learned there had been a discussion prior to your getting there with these Officers and Culombe? A. Yes, sir.

Q. After you entered the room was there any further discussion between the officers and Culombe? A. I believe there was just a short conversation concerning the location of some guns.

Q. And do you remember what that was? A. Culombe said that he would show the officers the location of the guns.

Q. Now, upon the completion of that statement did you go somewhere? A. Yes, sir, we all left state police headquarters.

Q. All those present? A. All those present.

Q. And where did you go? A. We went downstairs and we all went to the car to drive to the home of Arthur Culombe at 20 Coleman Drive.

Q. And as you left State Police Headquarters, which is across the street here on Washington Street, who was driving the car? A. I was.

Q. And how far did you drive the car? A. Just about four or five blocks.

Q. And what happened then that you didn't continue to drive? A. Lieutenant Rome instructed Detective Murphy and I to change places, and for Detective Murphy to drive.

Q. Just prior to your giving up the wheel had you heard any conversation in the car, particularly between Culombe and somebody else? A. Lieutenant Rome and

Culombe were in the back seat and they were talking. They had been talking from the time we left headquarters.

Q. Had you heard any of that conversation?
A. Yes.

Q. Can you tell us substantially what it pertained to, if you can remember what was said? A. No, sir, I don't recall just what it pertained to.

Q. But at any rate, after you heard the request from Lieutenant Rome you did change your position and left the wheel, and where did you go? A. I sat in the front seat on the right side, and Sergeant Paige sat on my left, and Detective Murphy took over the wheel.

Q. And in the rear seat, who was there? A. Lieutenant Rome and Arthur Culombe.

Q. Now, when you got into the righthand side of the car, the passenger's side, what did you do, if anything?
A. I took out a pencil and notebook and made a shorthand record of the conversation between Lieutenant Rome and Arthur Culombe.

Q. Now, are you capable now of giving us substantially what was said there, without refreshing your recollection from your notes? A. Yes, sir.

Q. And would you do that, please? A. Culombe said that he and Taborsky had driven to New Britain -

MR. BURKE: May I object again on this witness, Your Honor, and have the record show the continuing objection?

THE COURT: Surely.

MR. BURKE: With reference to Taborsky.

THE COURT: Same ruling. The jury is instructed not to pay any attention to this evidence in so far as the case of Taborsky is concerned.

MR. BURKE: Exception?

THE COURT: Surely. Go right ahead.

A. (continuing) that the streets were icy and some trees were down. They passed a gas station and Joe instructed him to go in, and he drove in and stopped at the gas pump, and when the attendant came out he instructed the attendant to fill the tank. It only took about five or seven gallons to fill it. While the attendant was doing that Taborsky asked if there was a men's room and he was told there was. He went inside the station. After the gas tank was filled Culombe paid the attendant with a two dollar bill. When the attendant went into the station Taborsky pushed him into a room which he thought was an engine room or a boiler room and he heard a shot. Taborsky came back out into the office of the gas station and about that time a customer drove into the gas station and stopped at the pumps. As Culombe was about to service this car Taborsky emerged from the station and said to the customer "Hey, your buddy wants to see you inside." He put a gun on him and ordered him into the station and into the men's room. Culombe heard two shots. Shortly after Taborsky came out and they left. He was asked by Lieutenant Rome how much money they realized, and he said that it was about $133.00.

Q. Now, is that the end of the statement as you remember it? A. Yes, sir.

Q. You were in the car and continuing on the way to Culombe's house at Coleman Drive, is that right?
A. Yes, sir.

Q. And did anything happen between the termination of that statement, of which you took notes, and the time that you got there at the house? Do you remember anything? A. No, sir.

Q. And ultimately you got down to the house of Culombe? And what happened there? A. Lieutenant

Rome, Sergeant Paige, Detective Murphy and Arthur Culombe went into the house immediately and I remained outside for just a minute or two until Lieutenant Tierney and Robert Glenn, of the Photographic Division arrived, and I entered the house with them.

Q. When you went in there who did you find inside? The officers that you just named? A. When I entered the house, in the livingroom were Mrs. Culombe and a young daughter about five years old, Sergeant Paige and Detective Murphy.

Q. And did you go somewhere in the house? A. I went through the livingroom and through a hallway and to a bathroom which led off that hallway.

Q. And what happened there, if anything?

A. Lieutenant Rome was removing a medicine chest from the wall and I remained there until he had removed it, and back of the medicine chest between the walls he found a brown leather brief case. He removed that and inside he found a gun and two blackjacks. I have here a record of the finding of the gun and the blackjacks.

Q. Was Culombe there at that time or was he out in the livingroom? A. He was in the livingroom.

Q. Where did he go from there? A. Shortly thereafter we went into Culombe's bedroom and Culombe opened the safe and Lieutenant Rome found a metal box with some parts of a gun, which he took into his possession and I took a rubber raincoat from the closet which Culombe identified as having been worn by him on an occasion..

Q. What else? Anything further done in the house?

A. I believe that that was all at that time.

Q. Now, did you go from the house to some other place? A. Yes, sir.

Q. Under whose instructions? A. Under instructions of Arthur Culombe.

Q. And where did you go? A. We drove from Coleman Drive to Newfield Avenue and to the intersection of Dexter Avenue, in Hartford.

Q. When you say "we", were those the officers that you described coming down on the trip with Culombe?
A. Yes, sir, the same five, Lieutenant Rome, Sergeant Paige, Detective Murphy, Arthur Culombe and I in one car, and Lieutenant Tierney and Robert Glenn followed in another car.

Q. Where did you go from the house? A. We drove to the intersection of Newfield Avenue and Dexter Avenue.

Q. And in going there was there any conversation with Culombe with respect to the trip to that point?
A. Well, he said at that time that he would show us where some guns were.

Q. And when you arrived there what happened?
A. He pointed out a swamp or pond, a shallow pond, a swampy area at the intersection of Newfield Avenue and Dexter Avenue, and told us about where in that pond we would find two guns, and he said that the parts of the gun that Lieutenant Rome had found in the metal box would fit one of those guns. He then directed us to drive down Dexter Avenue to Reed Avenue, to another swampy area and he told us we would find a raincoat in this swamp with the number 16594 on the collar. We drove to this pond and we were able - Detective Murphy was able to fish this coat out of the water, and Culombe identified it.

Q. As what? A. He identified it as his coat. He said it was worn by Taborsky.

MR. BURKE: Object, Your Honor.

THE COURT: Same ruling.

MR. BURKE: Same grounds. Exception.

THE COURT: Surely.

A. (continued) - on the night that they went to New Britain.

Q. Anything further done there at that location?
A. No, sir.

Q. Where did you go then, from there? A. We returned to Arthur Culombe's house and went to the cellar.

Q. And who went down there? A. The same group, the four officers, two photographers and Arthur Culombe.

Q. At whose direction did you go there? A. Arthur Culombe told us before -

Q. When you arrived there what did you find?
A. Under a large cabinet we found a paper bag, tied with string, and Lieutenant Rome removed it and inside were parts of a gun which had all been taken apart and ground down on a grinding wheel.

Q. Did you take that into your possession?
A. Lieutenant Rome took that into his possession.

Q. Anything further at the house? A. No, sir.

Q. You ultimately left the house and where did you go? A. We left the house and got back into the car and were directed by Arthur Culombe to drive down Chandler Street, in Hartford, and he directed us to stop near a point where a brook ran under the street, and said that he had discarded some wallets in some brush in that area, and a set of keys he had thrown into the brook.

Q. Did you make any search at that time for any of these things that were mentioned? A. Yes, sir. The brook - an effort was made to check along the banks of the brook in the vicinity of where he said he had thrown the keys.

Q. Any results? A. No, sir.

Q. Anything further happen at that particular point? A. No, sir.

Q. You ultimately left there and where did you go? A. We went to Borden's used car lot on Main Street, in Hartford.

Q. At whose direction? A. At the direction of Arthur Culombe.

Q. And when you got there what did you find? A. We drove into the yard and he pointed out a 1949 black Oldsmobile and identified it as having previously belonged to him at the time - and used by he and Taborsky on the night that they had gone to New Britain.

Q. Anything further done at Borden's Service Station? A. The car was taken into possession at that time, and some ashes were searched, some ashes which had been discarded outside on the ground from a stove which was inside the building.

Q. Any results? A. No, nothing was found.

Q. Now, you left Borden's and where did you go? A. We returned to state police headquarters.

Q. And about what time was that, Detective? A. Six ten p.m.

Q. And whether or not anything further at that moment went on between the parties that you have described, including Culombe? A. We all went to the office of Major Reimer at State Police Headquarters where Major Reimer and Commissioner Kelly were present

Q. And what happened there? A. Culombe was asked about his participation in this crime, in the presence of Major Reimer and Commissioner Kelly, and he admitted that he had been a participant.

Q. And at the conclusion of that conference what did you do? A. We all went to state police barracks and had supper.

Q. And then after supper whether or not you were present in the room with Culombe when something happened? A. After supper we all went upstairs to the Special Service Division and about 9:30 p.m. Lieutenant Rome, Sergeant Paige, Detective Matus and I went into a room with Arthur Culombe to take a written statement.

Q. And whether or not that evening a written statement of the New Britain affair and statements of other incidents were taken? A. Yes, sir, they were.

Q. And were you present when the statements were made by Arthur Culombe? A. Yes, sir.

Q. And what part, if any, did you take in the proceedings concerning the statements? A. I typed the statements.

Q. I show you State's Exhibit Z-1 for identification, and ask you if you recognize it? A. Yes, sir.

Q. As what? A. That is the statement that I typed that night.

Q. Now, Detective, in this statement that I just showed you, State's Exhibit Z-1 for identification, there were other matters than the New Britain incident, were there not? A. Yes, sir.

Q. May I say that there is another matter other than the New Britain matter? A. Yes, sir.

Q. But that that you just identified was the Statement that Culombe signed that night, is that correct? A. Yes, sir.

Q. Now, I would ask you to look over this same exhibit, State's Exhibit Z-1 for identification, and pay

your attention particularly to the New Britain incident alone, and become familiar with it, if you will. Have you read it? A. Yes, sir.

Q. Now, I ask you to look at State's Exhibit Z for identification and ask you if you ever saw that before? A. Yes, sir.

Q. And when? A. On the fourth of March.

Q. And that was the next Monday? A. Yes, sir.

Q. After the Wednesday that they were talking about? A. Yes, sir.

Q. Under what circumstances? A. I went with Lieutenant Rome to the County Jail on that day to see Arthur Culombe.

Q. And what did you have with you at the time? A. We had this statement with us.

Q. And you are pointing to State's Exhibit Z, for identification? A. Yes, sir.

Q. You didn't type that, did you? A. No, sir.

Q. Miss Murtha typed it? A. I believe that it was Miss Murtha.

Q. And were you familiar with it when you went to the jail with Lieutenant Rome that day of March 4th? A. Yes, sir.

Q. And was it read to Culombe there? A. Yes, sir, it was.

Q. And was it signed by him? A. Yes, sir.

Q. There? A. Yes, sir.

Q. And in your presence? A. Yes, sir.

Q. And in the presence of Lieutenant Rome, as appears on that sheet, is that right? A. Yes, sir.

Q. Now, what does - what is the difference between the statement, Z-1, the original statement, and this statement Z - I'll withdraw that question. As far as State's Exhibit Z for identification, does that confine itself completely to the New Britain incident? A. Yes, sir.

Q. And does Z-1 have in it some other incident?
A. Yes, sir.

Q. And having read the incident of New Britain in Z-1, and having now become familiar with Z, can you say that they are one and the same substantially? A. Yes, sir.

Q. I think it has been testified except one little change about his address or where he lived or was born, was added to Z, is that correct? A. Yes, sir.

Q. And he signed this Z without any protest?
A. Yes, sir.

Q. And he was cooperative in doing that? A. Yes, sir.

Q. And whether or not you explained to him that it was the same statement with the other incident eliminated which is in Z-1? A. Lieutenant Rome explained that to him.

Q. In your presence? A. Yes, sir.

Q. And was it read to him? A. Yes, sir.

MR. BILL: Your witness.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. Officer O'Brien, Culombe was cooperative, wasn't he? A. Yes, sir.

Q. He cooperated fully? A. Yes, sir.

Q. Told you everything that you asked about? And told you everything that you inquired about? A. Yes, sir.

MR. McDONOUGH: That's all.

THE COURT: I take it that there is nothing further, Mr. Burke?

MR. BURKE: Your Honor please, I want the record to show that inasmuch as the ruling have been made that whatever this man testified to cannot be used against my client, Taborsky, I object to all of the statements he made where Culombe supposedly implicated Taborsky, I will retain my position and not question.

THE COURT: Mr. Bill, do you have something further?

MR. BILL: Nothing further.

THE COURT: You may step down.

MR. BILL: Lieutenant Rome, please.

SAMUEL ROME, previously sworn, called as a witness for the State.

DIRECT EXAMINATION BY MR. BILL:

Q. Lieutenant Rome, I think in your testimony where you previously testified before the jury, we brought your testimony up to the events of Wednesday afternoon, February 27. Now, did you enter into this Culombe investigation at that time that afternoon at sometime? A. Yes, sir.

Q. Where was it? A. At State Police Headquarters in the interrogation room, Special Services Division, third floor.

Q. And about what time? A. About three or three-thirty.

Q. Did you enter a room eventually where Culombe was? A. Yes, sir.

Q. Who was present when you were present?
A. Culombe, Detective Sergeant Donald Paige and Robert Murphy.

Q. Prior to your coming into the room had you talked with either one of the Officers you just named?
A. Yes, sir.

Q. And whether or not you had been informed of certain matters that had taken place before you arrived there? A. Yes.

Q. And after you received that information you went into the room? A. A short time afterwards.

Q. When you went in there will you tell us what happened? A. I asked Arthur Culombe if he would care to cooperate to the extent of showing us where at least a weapon was, and he said he would, and he told us if we took him to his home he would show us where he had a weapon hidden. I called Detective Vincent O'Brien and with Robert Murphy and Sergeant Paige and Arthur Culombe we proceeded to Culombe's home at 20 Coleman Drive.

Q. Now, it has been testified to here that as you started out Detective O'Brien was driving the car that was occupied by the people you just mentioned as you left State Police Headquarters. Where were you located in the car? A. I was sitting in the back seat with Arthur Culombe. He was to my left.

Q. Just the two of you in the back seat? A. Yes.

Q. And in the front seat was O'Brien driving, and what were the other seating arrangements? A. O'Brien and Sergeant Murphy and Paige were on the right side.

Q. Did there come a time you asked O'Brien to change places with Murphy so far as driving was concerned? A. Yes, sir.

Q. What was the occasion? A. I was talking to Arthur Culombe about the New Britain affair and other incidents and he started to talk and said he was involved

in this affair and I immediately asked Detective Murphy to take the wheel and Detective O'Brien to take notes on our conversation.

Q. Then did you continue your conversation with Arthur Culombe? A. Yes, I did.

Q. Can you tell us as best you can in your words what he said and what you said? A. Yes, sir. I asked Arthur Culombe whether he and Joseph Taborsky went to New Britain.

MR. BURKE: May I enter as to this witness my objection on the bringing in of Taborsky as prejudicial and all the rest of the grounds, Your Honor?

THE COURT: And I make the same ruling. I sustain the objection as far as Taborsky is concerned and instruct the jury to disregard it insofar as Taborsky is concerned. Go ahead.

THE WITNESS: On the night of December 15th he told me they had left Hartford, they traveled down Stanley Street in New Britain that it had been a stormy day, the roads were slippery and trees were down, that he was driving a 1949 Oldsmobile and Taborsky was seated beside him, and that they went to New Britain for the purpose of finding a place to holdup and get some money, and that they had passed a gas station on the left as they traveled from Hartford toward the center of New Britain, and Taborsky told him to turn around and drive back into the station, that they could take it over.

MR. BURKE: I will object again and may the objection continue?

THE COURT: Insofar as you find it necessary to object, it will be sustained as far as Taborsky is concerned and the jury is instructed to disregard it as before.

MR. BURKE: May the record show, instead of con-

tinuing my objection that I object to any questions that will implicate my client?

THE COURT: Substantially, the record may show that, and if we reach any point where you feel it is necessary for you to interject yourself you may feel free to do it.

MR. BURKE: Thank you.

THE COURT: Go ahead.

THE WITNESS: And that he, Arthur Culombe, turned his car around after he had gone past this station about a city block, drove into the station between the pumps and the station, and parked his car at the pumps, and that a man came out and waited on them, and Arthur Culombe had bought some gasoline. The car didn't require much, and he gave the man a two dollar bill. While this man was servicing him - his car - Joseph Taborsky asked this man if he had a men's room, and learning that he did, Joseph Taborsky went inside the station. He had just filled his car when the attendant started into the station and was met by Taborsky who was still inside and who put a gun on him and ordered this attendant into a boiler room. They both went into the boiler room and Culombe said he heard a shot. Taborsky came out of this boiler room alone and started to search this gasoline station for money. He was searching the register when another car drove in and pulled to the pump. Culombe didn't want Taborsky to be surprised by this man so he pretended he was the attendant and started to service this car. Just then Taborsky came outside and said to Culombe "You are crazy - this fellow has your marker number."

Taborsky, according to Culombe, then walked over to the driver's side and ordered this man at gun point into the men's room of this gasoline station. They both went into the men's room and Culombe said he heard two shots. Taborsky came out alone and they both searched the

station, got some money and they left and went back to Culombe's home in Hartford.

Q. Now, that took place, as I understand it, in a conversation between you and Culombe in your car on your way to Culombe's house, is that right? A. Yes, sir.

Q. Does that finish what took place in the car as far as you remember A. As it concerns this incident, yes. yes.

Q. Now, ultimately you arrived at Culombe's house. What did you do when you went there? A. I asked Culombe to show me where this gun was he talked to us about.

Q. Did you enter the house? A. We all did.

Q. All that you described in the car. Who was in the house other than those you described? A. Mrs. Culombe and her five year old daughter Sandra.

Q. What does this house consist of - as you enter it, do you enter the living room? A. You enter the living room.

Q. And did you go into the living room? A. Yes, sir.

Q. Did you go from there somewhere? A. Yes, Arthur Culombe took us to the bathroom.

Q. Where was that in relation to the living room? A. That is off the corridor between the living room and the bedroom.

Q. And who went with you - did Culombe? A. Culombe was there and Detective Sergeant O'Brien, and I had radioed in to have some photographers come out.

Q. And whether or not you did something when you reached the bathroom? A. Yes, sir, after Arthur Culombe

told me where I might find that weapon I had him removed to the living room and I removed two screws from this medicine cabinet, took the medicine cabinet from the wall, and where he told me I would find a briefcase with the gun. I found it.

Q. Where? A. It was in the partition of the wall to the left - I found a brown leather briefcase containing a gun and two blackjacks.

Q. What sort of material was this partition - wood? A. It was the regular house partition - plaster - two by four joists.

Q. And how had this bag been put in there - would you describe it? A. It had been forced into the hollow of the wall.

Q. From in back of where the medicine cabinet came? A. That is right.

Q. And you took that out? A. I did.

Q. Will you tell what the contents were? A. A P-.38 German Luger, and two blackjacks.

Q. What did you do with those? A. I took possession of them.

Q. And at that time did you do anything further? A. Yes, sir, a search was made of the living room and a high-boy cabinet affair, Arthur Culombe had a safe. He opened the safe, and in this safe I found a metal box which contained a pair of revolver grips, black, and a screw which fitted one of the grips, a cylinder pin and a mainspring for a revolver.

Q. Did you take possession of those? A. Yes, I did.

MR. BILL: Is Captain Chameroy in the courtroom? Could you deliver the objects just named by the witness to me?

Q. Take this envelope from Captain Chameroy and take out the contents, Lieutenant Rome, and as a result of taking these objects I have now in front of you, I ask you, first off, to pick one up and tell us what it is? A. This is a mainspring or spring to a revolver.

Q. Where was that found? A. It was found in the metal box which was in the safe in the cabinet of Arthur Culombe's bedroom.

Q. That you just described? A. Yes, sir.

Q. Will you pick up the second object and describe that? A. That is the revolver grip or handles and the pin which would secure them to a revolver.

Q. There are two grips there? A. Yes, sir, there are.

Q. Will you put them together again? Now, the third object - what is that? A. This is a cylinder pin for a revolver.

Q. Now, are those three objects you found in that box you just described? A. They are.

Q. Now, what did you do with those three objects? A. I took possession of them and kept them and at a later time turned them over to Captain Chameroy. I had kept them locked in my desk drawer at the Special Services room.

MR. BILL: May these three be marked as one exhibit for identification?

MR. BURKE: This is merely for identification?

THE COURT: Yes, they are three being combined as State's Exhibit GG for identification.

(Envelope containing gun parts marked State's Exhibit GG for identification.)

THE COURT: Will you escort the accused from the courtroom, please?

The jury may retire to the jury room and the alternates to their room.

Short recess, Sheriff.

(Recess at 3:28 P.M.)

JUNE 18th, 1957 - 3:50 P.M.

THE COURT: Bring up the accused, Sheriff.

(Accused present)

THE COURT: May I have the jury, Sheriff, and the alternates, please?

(Jury and alternates present)

SAMUEL ROME, on the witness stand.

DIRECT EXAMINATION BY MR. BILL: (RESUMED)

THE COURT: You may proceed when you are ready, Mr. Bill.

Q. Lieutenant, you just testified to finding these articles that you identified. Now, after that what took place? A. Arthur Culombe directed us to a swamp at the intersection of Newfield and Dexter Streets, and pointed to a spot close to the center of this swamp and said that this was where he threw the two revolvers that were used on the New Britain job.

Q. Did you make any search for them at that time? A. No, sir.

Q. What did you do after that? A. We then under his direction went to a lot at the corner of Dexter and Reed Streets, very close to this first one, where he pointed to an object and says "you will find my raincoat, my name

inside and a number," and he gave us the - from memory he gave us the serial number which was written inside this raincoat and he said this was the coat that was worn by -

MR. BURKE: Objection, Your Honor. Same ground.

THE COURT: Same ruling. The jury will disregard it in so far as the Taborsky case is concerned. Go ahead.

A. (continued) - worn by Joseph Taborsky when they held up Kurp's gas station in New Britain on the night of December 15th.

Q. Was the coat found at that point? A. Yes.

Q. In your presence? A. Yes, sir.

Q. And in Culombe's presence? A. Yes, sir.

Q. And who found it? A. Detective Robert Murphy.

Q. And did he take possession of it? A. He did.

Q. What did detective Murphy do with that raincoat?
A. He kept it in his possession until he turned it over to me at the barracks and it was placed in a locker in our squad room.

Q. Showing you State's Exhibit FF for identification I ask you if you recognize that exhibit? A. Yes, sir, with Culombe's name stenciled on the collar.

Q. What did you do with it? A. I kept it in my locker and later instructed Officer James Kingston to take this, along with other items to the State Laboratory on Main Street.

Q. Now, getting back to the scene where this raincoat was found, after it was found what happened?
A. We then went to a street - the name of the street escapes me now.

Q. Was it Reed? A. No. Reed and Dexter is where we found the coat.

Q. All right. Chandler? A. Chandler Street, yes, sir.

Q. And what happened there? A. Arthur Culombe pointed to a wooded area where he told us that he had thrown the papers, identification papers taken from the wallets of the victims at Kurp's gas station.

Q. And was any search made at that time for those articles? A. A search was made for a very brief period of time.

Q. Any results? A. No, sir.

Q. Anything further done there at that location? A. A search was also made for some keys, also without success.

Q. I didn't hear that. A. A search was also made in a culvert for some keys.

Q. Any results? A. No, sir. Without success.

Q. Ultimately did you leave Chandler Street? A. We did.

Q. And where did you go? A. We went to Culombe's home.

Q. And what did you do there? A. In the basement of his home he told us that we would find another gun that was ground up, under a cabinet, and we used something to wedge this cabinet and raise it, and under this cabinet we did find parts of a gun well ground up, mutilated, in a brown paper bag.

Q. Anything else done there at the house that you remember? A. A search was also made of the trash barrel area, without success.

Q. And anything else? A. No, sir.

Q. And at this point did you leave Culombe's house? A. Yes, sir.

Q. And where did you go? A. We went to Borden's Auto Sales, on North Main Street, in Hartford.

Q. At whose direction? A. Arthur Culombe's.

Q. And when you arrived there what did you find? A. Arthur Culombe pointed to a 1949 black Oldsmobile and he had turned it in to Borden for the Chevrolet that he now owned, and that that 1949 Oldsmobile was the one that he used when he drove to New Britain the night of December 15th, with Joseph Taborsky.

Q. Did anything else happen at Borden's? A. Yes, a search was made of the ashes of a pot bellied stove in an effort to recover some articles, metal items that might be in there, articles that Culombe said he threw in this stove at an earlier date.

Q. Any results? A. No, sir.

Q. Then did you leave Borden's? A. We did.

Q. Where did you go to? A. We went back to the barracks.

Q. And when you got back to the barracks what did you do? A. We took Arthur Culombe to Major George Reimer's office, where we were met by Commissioner John Kelly and Major Reimer.

Q. And what was done in their presence? A. Commissioner Kelly asked Culombe about his participation in this crime, and other incidents, and Culombe told the story to Major Reimer and Commissioner Kelly as he had told it to us a short time previously.

Q. After leaving that conference where did you go?

A. Later that evening we went upstairs and took a statement from Arthur Culombe.

Q. There was an interim there, was there to have supper? A. We had supper.

Q. And later you met with Culombe? A. Yes, sir.

Q. And where was that? A. That was up in the Special Service Division on the third floor, State Police Headquarters, in Hartford.

Q. About what time? A. About seven o'clock.

Q. And who was there? A. Detective O'Brien, Sergeant Paige, Eddie Matus and I, with Arthur Culombe.

Q. And what took place there? A. We took a statement from Arthur Culombe.

Q. And did you discuss other incidents than the New Britain matter? A. Yes, sir, we did.

Q. And as a result of the discussion did Arthur Culombe give a statement that was transcribed? A. Yes, sir.

Q. And who transcribed it? A. Detective Vincent O'Brien.

Q. And in shorthand, do you know? A. I am of the opinion that was typed.

Q. Typed right then and there? A. Yes, sir.

Q. And did you conduct the questioning with Culombe which resulted in the statement concerning the New Britain affair? A. Yes, sir, I did.

Q. And I show you State's Exhibit Z-1 for identification. and ask you if you recognize it? A. Yes, sir, I do.

Q. As what? A. The statement that we took from Arthur Culombe the night of February 27th.

Q. And is it signed by Arthur Culombe? A. It is.

Q. Was it signed in your presence? A. It was.

Q. And is your name down there as a witness? A. Yes, sir.

Q. And other names as witnesses? A. Yes, sir.

Q. And who are they? A. Donald Paige, Vincent J. O'Brien and Edward Matus.

Q. Now, Lieutenant, in taking down this statement that you just saw, State's Exhibit Z-1, did you find on examining that that it contained another incident other than the New Britain affair? A. Yes, sir.

Q. And as a result of that, of that statement containing something other than New Britain, did you do something about that? A. Yes, sir, I did.

Q. At a later date? A. Yes, sir.

Q. And what did you do? Did you have a conference with somebody? A. Yes.

Q. And with whom? A. Policewoman Doris Murtha.

Q. Did you have a conference more particularly with a superior officer? A. Yes, sir, Major George Reimer.

Q. And did you have a discussion with him? A. Yes, sir.

Q. As a result of your discussion did you do something with this statement, Exhibit Z-1? A. Yes, sir.

Q. And what did you do? A. I had the New Britain incident isolated.

Q. In other words, eliminated anything other than the New Britain incident? A. Yes, sir.

Q. And did you give a request to someone in your department to do that very thing? A. Yes, sir.

Q. And who did it? A. Policewoman Doris Murtha.

Q. And when was that accomplished? A. On Sunday.

Q. The Sunday following the incident? A. Yes, sir.

Q. March 3rd? A. Yes, sir.

Q. And showing you State's Exhibit Z for identification, and also along side of it Z-1, for identification, will you examine those two exhibits so you will be able to tell us whether the stories in the two exhibits concerning the New Britain matter coincide substantially? A. They do coincide substantially.

Q. And that Sunday did you receive that State's Exhibit Z for identification from Miss Murtha? A. Yes, sir.

Q. And at that time did you copy this Z - State's Exhibit Z - compare it with Z-1 - concerning the New Britain affair? A. Yes, sir.

Q. And did you find that it compared substantially? A. I did.

Q. And after you found that out, did you do something with it? A. Yes, I kept both of them with their copies in my possession, and the following day Detective Sergeant O'Brien and I went to the County Jail where we talked with Arthur Culombe.

Q. And what did you tell him, if anything with respect to your mission? A. I explained to him the fact that this original statement has something in it other than the one in New Britain, that I had removed the other incident, and this was just a story of the New Britain affair. I read it to him aloud and explained the difference and he signed it.

Q. You say you what? A. I explained this.

Q. Meaning the difference between the two?
A. The statements.

Q. One having an incident that wasn't in this one, is that right? A. Yes, sir.

Q. And after you read it, what did he do? A. He signed it.

Q. In whose presence? A. Detective Vincent O'Brien and mine.

Q. Did he have any object to it? A. None whatsoever.

Q. Did he do it voluntarily? A. Yes, sir.

Q. Was he cooperative? A. Yes, sir, he was.

Q. Is that the statement he signed? A. Yes, sir, that's the statement he signed.

MR. BILL: I offer this - Z.

MR. McDONOUGH: No objection.

MR. BURKE: I wish to have the record show that I object to this being introduced and read to the jury for the reason that it does contain statements which were supposedly made by Taborsky and attributed to him by Culombe, and that these statements would be prejudicial to Taborsky and would be inflammatory in the hands of the jury against Taborsky's interests, and that whole statements, as set forth in there makes Taborsky appear as being the instigator of this whole thing; and no matter how the Court admonishes the jury, it is impossible to close one's mind to that which they have heard.

Now I want the record to show that I asked the Court to blank out this, or at least take out from the statements which Culombe made about Taborsky as prejudicial statements. To introduce this and let the jury read it would be just highly prejudicial to the interests of Taborsky.

MR. McDONOUGH: I said I didn't object. May that be withdrawn, and may I request Your Honor to observe the objection I made to the Court previously?

THE COURT: Certainly, and with reference to Mr. Burke's objection, I will make the same ruling. I will refuse to follow his request, but I will instruct the jury that this is not admitted in the case of State versus Joseph Taborsky. Anything in it that portends to refer to the Taborsky case has no place in your minds at all insofar as the Taborsky case is concerned, and you will disregard it entirely. I don't know how I can say that any plainer. It has no bearing whatever on the case of State versus Joseph L. Taborsky, and you will not consider it or allow it to influence you in any way in arriving at your consideration as to what you should do in State versus Taborsky, if you do arrive at such a position, but I will admit it.

MR. BURKE: May I have an exception to Your Honor's ruling?

THE COURT: Surely. This will be State's Exhibit Z - full exhibit.

(State's Exhibit Z for identification - confession - marked a full exhibit.

Q. I just want to ask a few questions about this State's Exhibit Z. I notice in it the date appears to be February 28, 1957 - 12:30 A.M. Now, I understand from you this was a substitute to Z-1 for identification. How was the date done there - or figures out - if you know?

A. Yes, I do. The original State's Exhibit Z-1 - as we started to take that statement at 10:55 P.M. - and this information contained in State's Exhibit Z - we marked that at 12:30 A.M., which was the time as near as we could determine that that information was obtained, and there is a correction on the date. We started on February 27, and February 27 was again originated on State's Exhibit

Z, and Miss Murtha made that correction and changed it to the 28th - 12:30 A.M. - which would be the cause of that.

Q. In other words, this Z-1 was taken in two parts. Some other incident took up some of the time? A. Yes.

Q. And you started at 10:55? A. Yes.

Q. And you figured that having been disposed of, this made it the New Britain affair started the next morning, February 28 at about 12:30. Is that the reason for the time and date? A. Yes, sir.

MR. BILL: If it please the Court and ladies and gentlemen of the jury, State's Exhibit Z read as follows:

"S-152-M State of Connecticut, County of Hartford, Hartford, February 28, 1957. 12:30 A.M.

"Statement of Arthur Culombe.

"I, Arthur Culombe, age 32, of 20 Coleman Drive, Hartford, Conn., give the following voluntary statement, without fear, threat or promise, and knowing that this statement will be used in court.

"I was born in Fall River, Mass., on February 28, 1924, the second oldest of five children born to my parents, Mr. and Mrs. George Culombe, now living in Fall River, Mass. I left Grammar School while I was in the third grade.

"I have known Joseph Taborsky who now lives on Hancock Street, Brooklyn, New York, since 1951.

"On Saturday afternoon in December, 1956, Joseph Taborsky came to my home at 20 Coleman Drive, Hartford. Joe knew that I had a collection of guns, and he also knew that I had a 1949 black Oldsmobile. Joe and I went to the bedroom in my home, closed the door, and made plans to hold up some place and get some money. Joe said he couldn't go home without getting some money to give to his wife because she "thinks I am working."

"The road was very icy and slippery and in some places the trees and wires were down. When we got into New Britain, we passed a gas station and Joe said, "You better turn around and I'll go in and get that place." I turned around and drove into the gas station. There were no customer's cars parked there, but there was one car parked there, a Plymouth, and I believe it was the owner's. The gas station attendant, who was a man about my age, came out and I gave him the keys to my car and I told him to fill up the tank. He filled up my tank and it amounted to about a dollar and some change. I gave him a $2 bill. The man was hanging up the hose when Joe Taborsky stepped out of the car and asked the man if he had a men's room in the place. Joe went into the men's room as the owner was going into the station. I was still sitting in the car by the gas pump. My car was facing toward Hartford. Joe said something to the guy and took out his gun and pointed towards a door that looked like it led into a boiler room or furnace room. The man, who was dressed in a gas station uniform, went into this room and Joe followed him in. Just as soon as they got into this room I heard one shot and saw that it came from the gun that was in Taborsky's hand. This was one of tw .32 calibre revolvers that I had loaned to Taborsky before on this night, and that he had when he went into this gas station. These two revolvers I bought from New York Loan Co. in Hartford this past summer.

"The room where Taborsky took the attendant had a red pump on the floor, a boiler on the left side and a door on the right side of the room. I saw Taborsky come out of the room and he had my nickel plated revolver in his hand. He put the revolver in his pocket and walked over to the cash register and tried to pry it open with some object. I saw him open the register and take money out and put it in his pockets. At the same time I saw a car, I think a Buick, drive into the gas station. I got nervous because I didn't want him to see Taborsky come

out of the station, so I walked over to this car when he pulled alongside the pump and asked him how much gas he wanted. This man had a little child in the car, and in my opinion it looked like a boy, and he parked the car facing toward New Britain. The man I believe knew I wasn't the gas station owner and he got out of his car. Just at this time, Taborsky came out of the door of the gas station, pointed my .32 revolver, blue with a long barrel at him and said to me, "Are you crazy, he got your marker number" and he told the man to get inside the gas station. This man was a young guy about 35 years old. I don't remember how he was dressed, but I think he was dressed in ordinary working clothes. This man did what Joe told him to do and walked right into the station. Joe made him go into a room which is on the right side as you go in. I believe it looked like a men's room. Joe and the man went into this room and I heard two shots. Joe came out of the room, still holding my revolver in his hand. I was in my car at the time and Joe got in beside me, still holding my revolver in his hand, and we drove towards Hartford.

"When we went into the gas station in New Britain, I believe it was about 7:00 or 7:30 P.M.

"I drove to Hartford and Joe sat beside me with the revolver in his lap. Joe said, "If any cop tries to stop us, I will shoot to kill the son of a bitch, nobody's going to take us." We went up to my house and found my family asleep. We went into the kitchen and Joe showed me two wallets that he said he took from the two men in the gas station. He took the money out of both wallets, one wallet contained $2.00. I think this wallet was black. The other wallet, which I think was alligator, had $20 or $30 in it. The total from the two wallets and the register was about $133. Joe gave me about $60, about $30 in change and $30 in bills.

"Joe told me to come down to his car, that he wanted to talk to me. He had some trouble getting his car started and I gave him a push. After he got his car started he told me to sit in his car beside him. Then Joe told me that he trusted me and that if I ever told my wife about this he would kill me and if he couldn't get at me, he would get my wife or children. I told Joe I wouldn't tell anybody, and he went home to New York.

"The above statement has been read to me and it is true.

"Signed - Arthur Culombe.

"Witnesses: Samuel Rome; Vincent J. O'Brien."

Q. Now, after this statement and others were made on Wednesday night and early Thursday morning, what happened to Culombe? Where did he stay that night?
A. At the barracks.

Q. Was Taborsky around? A. Taborsky was at the Hartford County Jail.

Q. I think you have testified to all proceedings up until Wednesday in your last appearance before the jury, but just to get things up to date, when did you last take Taborsky down to the jail prior to this Wednesday we are talking about now? A. Tuesday night.

Q. And was Taborsky taken from the jail at any time between Tuesday night when he was taken down there and the next Thursday morning? A. No, not until the next Thursday morning.

MR. BURKE: May I now inquire - you have left Culombe and you are on the Taborsky case?

MR. BILL: Well, I have a few things to bring in jointly about that morning in court. I am proceeding with Taborsky, however.

MR. BURKE: I would like to have it made clear so I will know my position. If he is proceeding with the Taborsky case I want to be alert to that fact.

THE COURT: I think from my observation point, you had better be alert.

MR. BURKE: Thank you, Your Honor.

THE COURT: Go ahead.

Q. Now, on Thursday morning did you see, Culombe?
A. Yes, sir.

Q. And where did he stay that night — Wednesday night - the night of the statements? A. At the Hartford barracks.

Q. And did you see Taborsky? A. Yes, sir.

Q. Under what circumstances did you see Taborsky?
A. I saw him at the County Jail when I asked to bring him to the barracks.

Q. Was he delivered to you at the Hartford County Jail? A. Yes, sir, he was.

Q. And under what circumstances did you bring him over - did you take him over to State Police headquarters?
A. Yes, sir.

Q. And from whom did you receive him? A. If I remember, the Deputy Sheriff or Sheriff in charge at the time.

Q. Where did you take him to? A. We stopped at the Hartford Courant, and I didn't leave the car, and from there we went to the interrogation room on the third floor Special Services Division of the State Police headquarters on Washington Street.

Q. You stopped at the Hartford Courant building. Did you do something there or send for something?
A. I bought a newspaper.

Q. Did you later on at that time show that paper to Taborsky? A. I did show it to Taborsky at that time.

Q. Was there anything there about the paper you showed him? A. The headline stating "Culombe Confesses" - I showed that to Taborsky.

Q. Then did you ultimately arrive at State Police Headquarters? A. I did.

Q. And when you got there was there anything done?
A. Yes, sir, I had Culombe brought in the room where Taborsky was and asked Culombe to tell us in the presence of Taborsky what he had told us the previous day.

Q. Who was there other than the two accused, do you remember? A. I am of the opinion Detective O'Brien and Sergeant Paige were there.

Q. And what did Culombe do, if anything?
A. Culombe told us in the presence of Taborsky that which he had told us the previous day.

Q. He repeated this story? A. He did.

Q. And was it substantially as the statement, State's Exhibit Z? A. Yes, sir, it was.

Q. What did Taborsky do, if anything?

MR. BURKE: I am going to object. All of this is inadmissible. It is our claim that when a man is in custody and under arrest, that anything he says or does, or if he is confronted with someone to make a statement, it is his duty to do nothing. It is inadmissble.

MR. BILL: The fault with that is that if he has done nothing, then the State can't claim it. Under the Ferrone case, if he remains silent, that is inadmissible. The cases hold that if he does say something, it can be brought out on the basis of what he said.

MR. BURKE: In the case of State against Bates, it is true, when the accused remains silent, it cannot be introduced, and it is also true that if the accused denies it, it cannot be brought in.

THE COURT: Do you have a case on the latter statement? You needn't show me anything on the first part. He has a perfect right to remain silent, but do you have a case that says that if he does say or do something that it isn't admissible?

MR. BURKE: I think I do, Your Honor.

THE COURT: I would like to see it.

MR. BURKE: I can't put my hands on one, Your Honor, but my recollection of the law is that the only purpose that such evidence is admissible is to show the attitude or the conduct or the demeanor — I believe the Court uses that word — of the accused upon being accused by somebody else. I think that a denial or remaining silent makes this sort of thing inadmissible. I can't put my hands on the case.

THE COURT: There's no question about it, the Court agrees with you on the remaining silent, but I don't go along on the other, so I'll have to overrule your objection.

MR. BURKE: You mean, Your Honor please, if he remains silent this evidence couldn't be introduced?

THE COURT: Could not be.

MR. BURKE: And if he denies it, it could be? It would seem a denial would make his —

THE COURT: He has a perfect right to remain silent. If he denies it, the Court isn't going to comment. I think it's admissible.

MR. BURKE: May I have an exception?

THE COURT: You surely may. And if you find your case I should still like to read it.

MR. BURKE: I think, Your Honor, the Court's opinion in State vs. Ferrone, 97 Conn. 258, that has to do with statements made by the accused himself not in the nature of a confession, either of his own volition or in response to questions or queries while he is under arrest.

THE COURT: May I see that case?

MR. BURKE: Yes, Your Honor.

THE COURT: Do either of you gentlemen have 97 Connecticut on the table?

MR. LABELLE: We have it upstairs, Your Honor.

THE COURT: You can get it right in my office.

MR. BILL: State vs. Bates, 140 Conn. 329, quotes the Ferrone case and gives the rule, Your Honor.

THE COURT: I understand; but if Mr. Burke wants me to read the 97th Connecticut I'll be very happy to read it.

MR. BILL: I think, Your Honor, I'll stop all discussion by withdrawing the question.

THE COURT: All right. Incidentally, did that come out of my chambers? If you give it to me I'll see that it gets back.

MR. BURKE: That's page 266.

THE COURT: The question is withdrawn.

BY MR. BILL:

Q. Now, Lieutenant, what happened after that?
A. They were later presented in Court.

Q. Did you have information that certain Court pro-

ceedings were going to be held here in the Superior Court?
A. I did.

Q. And as a result of that information did you do something in connection with the accused? A. Yes; I had them both here, served bench warrants on both of them — each one of them.

Q. You caused bench warrants to be served on them?
A. I served them myself.

Q. You served them yourself? And were you in attendance at the Court hearing? A. Yes, sir.

Q. Before His Honor, Judge Abraham S. Bordon?
A. Yes, sir.

Q. And were both the accused here? A. They were.

MR. BILL: Now, at this time, Your Honor, I'd like to introduce a transcript of the proceedings in both cases.

THE COURT: They are marked for identification. What is the marking?

MR. BILL: State's Exhibit BB for identification; that's the Culombe case. And State's Exhibit CC for identification, which is the Taborsky case. I move that they be made full exhibits.

THE COURT: Is there objection on your part, Mr. McDonough?

MR. BILL: I'll take BB, first that's Arthur Culombe.

MR. McDONOUGH: No, Your Honor.

THE COURT: May be marked a full exhibit.

(Court proceedings of Feb. 28, 1957, previously marked "State's Ex. BB for identification," received in evidence as a full exhibit.

MR. BILL: If it please the Court, ladies and gentle-

men of the jury, State's Exhibit BB reads as follows: That's case number 21665-6, and that's the Culombe case —

MR. McDONOUGH: 21654.

THE COURT: No, no. 21665-6.

MR. BILL: I am quoting the stenographer's number.

THE COURT: The number in this case.

MR. McDONOUGH: I was referring to the other Court trial.

THE COURT: Which one were you giving, Mr. Bill?

MR. BILL: 21654 was the number of the bench warrant: That's another case other than this.

MR. McDONOUGH: But it should be identified by that Court file number, Your Honor.

THE COURT: No; we are talking about different things.

MR. McDONOUGH: We're talking about the same transcript.

THE COURT: But we're talking about different things. The question is in which case this was admitted as an exhibit, and it is in the Culombe case, which is 21666.

MR. McDONOUGH: Now we're all talking about the same thing.

THE COURT: That's good. Go ahead, Mr. Bill.

MR. BILL: What is this "21665-6"? Why is that in there. That's Taborsky case, isn't it?

THE COURT: Taborsky is 21665 and Culombe is 21666.

MR. BILL: The stenographer has got it 21665-6.

THE COURT: Well, it shouldn't be.

(Exhibit corrected to read "Case No. 21666.")

MR. BILL: State's Exhibit BB, Case No. 21666:

"No. 21654, State vs. Arthur Culombe, Superior Court, County of Hartford, February 28, 1957.

"Before Hon. Abraham S. Bordon, Judge.

"Appearances: Douglas B. Wright, Esq., for the State.

"The accused, pro se.

"MR. WRIGHT: Your Honor will recall that early this morning a bench warrant was issued in the case of Arthur Culombe. We now present this man before the Court and I present the bench warrant which has been endorsed showing it has been served. At this time, Your Honor, we request that the Court issue and order releasing Arthur Culombe into the custody of Commissioner John C. Kelly of the State Police, or his deputy, for the purpose of further investigation, following which Arthur Culombe shall be returned to the Hartford County jail.

"Arthur Columbe is now before the Court and I suppose he should have a right to speak if he wishes to.

"THE COURT: Culombe, you have been arrested pursuant to a bench warrant issued by this Court. You are being charged with murder in the first degree. The federal and the state constitutions and the laws of our state give you certain rights. You have a right to have an attorney of your own choosing. Do you have one?

"THE ACCUSED CULOMBE: No, I don't.

"THE COURT: Do you wish to have one?

"THE ACCUSED CULOMBE: Yes, I do.

"THE COURT: Is there anyone that you have in mind that you would like to represent you? If you don't have one or wish to have one the state will provide you with

an attorney. Usually it is the public defender. Would you like the public defender to represent you?

"THE ACCUSED CULOMBE: No, I don't.

"THE COURT: Do you have an attorney in mind?

"THE ACCUSED CULOMBE: I would like to ask Tommy McDonough.

"THE COURT: Are you able to engage him and pay him for his services?

"THE ACCUSED CULOMBE: No, I can't.

"THE COURT: In due course the Court will see that you have an attorney of your own choosing even though it may be necessary for the state to pay for his services. In the meantime the police wish, of course, to conduct an investigation into the charge which is made against you. You have a right, if you wish, to say nothing, or you may, if you wish, cooperate with the police. The police, I am sure, will respect your rights, will not violate any of the rights that you have. I am now asked to permit the police to take you from jail in order to conduct their investigation. Are you willing to cooperate with the police?

"THE ACCUSED CULOMBE: Yes, I am.

"THE COURT: In the course of the investigation the police may wish to take you to various places that they claim now are the scenes of some of the crimes which are charged against you. Are you willing to cooperate with them?

"THE ACCUSED CULOMBE: Yes, I am.

"THE COURT: You do that voluntarily?

"THE ACCUSED: Yes, I do.

"MR. WRIGHT: I prepared an order, Your Honor, which I present to the Court.

"THE COURT: Culombe, the motion is that I release you to Commissioner Kelly for the purpose of continuing the police investigation of the crime that you are charged with. I am going to enter that order on the strength of the statements that you have made that you are willing to cooperate with the police. It that agreeable to you?

"THE ACCUSED CULOMBE: Yes, it is. I want to cooperate with them in any way I can.

"THE COURT: Then the order may issue. The motion of the State's Attorney is granted."

* * * * *

MR. BILL: Now, I would like to introduce —

MR. BURKE: Your Honor please, I am going to object to the introduction of this exhibit, the other exhibit, and I am going to object to it on these grounds: One, that though the Court may take judicial notice of the Court proceedings, the proceedings under this that the State's Attorney wishes now to read to the jury is not within the purview of the indictment of this particular crime. My client is charged by an indictment of the grand jury with a certain crime. This bench warrant was issued willy nilly, I don't know what crime. There was a proceeding over here, some sort of a preliminary proceeding, but just because there was an indictment by the grand jury I submit that to stand and read to the jury questions and answers which occurred in the courtroom is the recording to the jury of hearsay information prejudicial to the rights of Taborsky, and I submit, Your Honor, that it is not admissible.

THE COURT: What do you say, Mr. Bill?

MR. BILL: Well, Your Honor, of course this was in the presence of the accused, and he was here and all the statements that were made were made in his presence, and what statements he made are here.

THE COURT: What is the purpose of the offer?

MR. BILL: The purpose of the offer?

THE COURT: Yes.

MR. BILL: The purpose of the offer is to show that the accused was informed of his Constitutional rights by the Court, and the matter of an attorney for him was discussed, and those matters were all discussed here and they are highly important and they show the conditions under which the State proceeded from there on, and that the motion was granted turning these men over to the State Police, which was a valid order of the Court and shows and explains the status of the accused from there on.

THE COURT: I am inclined to think it is premature. I'll sustain the objection at this time.

BY MR. BILL:

Q. Now, at the conclusion of the proceedings in this Court on that day of February 28th, which was Thursday, did you ultimately leave the Courtroom here? A. I did.

Q. And what became of the two accused? A. The accused Joseph Taborsky was sent over to the State Police barracks to be locked up, and Arthur Culombe accompanied us to the scene of the crime in New Britain, where he showed us just how he and Taborsky had committed this crime.

MR. BURKE: May I again enter my objection to the witness' statement of what Culombe said, what Culombe did or whatever he did over there implicating Taborsky in that crime.

THE COURT: Yes; I'll rule the same as I have ruled all along, that any statements made by Culombe in the absence of Taborsky are not admissible in State vs. Taborsky. I'll strike them out of the case of State vs. Taborsky

and I have admonished the jury frequently, I think, and I would again, that in case I do that the evidence is not to be considered in the case of State vs. Taborsky. You may proceed, Mr. Bill.

Q. You say you went to New Britain, and where did you go with Culombe? A. Went to Kurp's gasoline station.

Q. And whether or not the accused Culombe got out of the car? A. He did.

Q. And what did he do? A. He showed us where he had parked his car the night of December 15th. He showed us where he stood when Taborsky took —

MR. BURKE: May I object to this, Your Honor.

THE COURT: No; let him finish and I'll be able to rule them. Finish your statement.

A. (continued) — took the attendant into the boiler room and later the customer into the men's toilet.

THE COURT: I'll hear you.

MR. BURKE: As I understood from Mr. Bill, right now he is proceeding on both cases. Is that not correct, Mr. Bill?

MR. BILL: Yes.

MR. BURKE: And here is evidence of a witness being placed in this case, statements by Culombe as to —

THE COURT: Oh, you don't need to labor the point. I will agree and I'll rule the same as I have. Your motion to strike out in so far as Taborsky is concerned is granted. The jury will disregard it entirely. Go ahead, Mr. Bill, or Lieutenant.

A. He also pointed out that at this time the cash register was in a different place. He said he thought it

was in the window, near the window the night of the crime, and at this time it was on a counter near the wall between the boiler room and the men's toilet.

Q. You saw it there yourself? A. I did.

Q. All right. What then? A. And he went into some detail as to what was in the boiler room that Joe Taborsky — where Joe Taborsky took the attendant, and showed us the cabinets they searched, and we left shortly thereafter.

Q. Anything further? A. No, sir.

Q. And did you bring Culombe back to State Police headquarters? A. Yes, sir.

Q. And was there anything further done concerning Culombe between that Thursday afternoon, would it be? Thursday afternoon? A. Thursday afternoon.

Q. And Saturday morning, or Saturday? Did he participate, or you, in any part of the investigation during that time, do you remember? A. Not that I remember at this time.

Q. And where was he at that time? A. He was at State Police barracks.

Q. Why was he at State Police headquarters?
A. So we could further discuss.

Q. Had there been any discussion whether he should go to jail or stay at State Police headquarters? A. Yes, sir.

Q. And what was that? A. It was Arthur Culombe's wish that he stay with us at the State Police barracks.

Q. You say Taborsky was at the jail? A. Yes, sir.

Q. That is, from Tuesday morning to Thursday morning Taborsky was at the jail. And where did he go after Thursday morning, if he did?

THE COURT: Where did who go, Mr. Bill?

MR. BILL: Taborsky.

A. He went to the barracks and stayed there two or three hours and then was taken to the Hartford County Jail.

Q. And he remained there until when? A. Friday, March 1, about 5:30 P.M.

Q. And that is the period Culombe remained at State Police headquarters? A. Yes, sir.

Q. Now, whether or not between Thursday afternoon when you had Taborsky taken to the Hartford County Jail, and somewhere around 5:00 o'clock Friday afternoon the next day, March 1, had anybody - you or anyone of your officers seen Taborsky during that time? A. No, sir.

Q. And he remained in the Hartford County Jail during that time? A. Yes, sir.

Q. Just before 5:00 o'clock did you see somebody other than Taborsky? A. I saw and talked with his mother.

Q. That is, Joseph Taborsky's mother? A. Yes, sir.

Q. Under what circumstances and where did you meet her? A. I met her at the barracks.

Q. Had that been as a result of a request? A. At a request of her.

Q. At a request of her? A. Yes.

Q. To whom had the request been made? A. To me.

Q. And in person or by what other communication? A. By telephone.

Q. At about what time? A. I don't know the time. I am of the opinion it was earlier that day.

Q. Friday? A. Yes.

Q. You mean earlier than this 5:00 o'clock you speak of? A. Yes, sir ,much earlier.

Q. And you had talked with her on the telephone? A. Yes, sir.

Q. As a result of that talk did you later see her in person? A. Yes, sir.

Q. And did you furnish the transportation for her? A. I did.

Q. From where to where? A. From her home at 226 Park Terrace to State Police headquarters.

Q. Did you have a talk with her at State Police headquarters? A. Yes, sir.

Q. And after that conference with her was something done? A. Yes, sir.

Q. What was that? A. I brought her into the interrogation room where her son Joseph Taborsky sat.

Q. During the time you were talking to the mother was something done about Joseph Taborsky - he was at the jail? A. Yes, he was brought to the State Police headquarters.

Q. Now that we have him there at that time, what time was that about? A. About five or five-thirty.

Q. And what room was he in? A. In the interrogation room at State Police headquarters.

Q. Did you enter the room there sometime? A. I did.

Q. Were you accompanied by somebody? A. Yes.

Q. By whom? A. Mrs. Taborsky.

Q. When you entered that room who did you find there? A. Joseph Taborsky.

Q. Anybody else? A. Officer Robert Reimer.

Q. What was this officer, Robert Reimer, doing there? A. He was doing guard duty.

Q. When you got into the room what happened? A. Mrs. Taborsky and Joseph Taborsky exchanged greetings.

Q. In what way? A. Mrs. Taborsky went over to him and put her arm around him, they both sat down very close to each other - almost facing each other - and I sat on the table almost in between the both of them.

Q. And what was said then by Mrs. Taborsky and Joseph Taborsky? A. Mrs. Taborsky told her son she wanted him to tell the truth, and that she would love him just the same, he would still be her son, and not to hestitate to tell his part of the story, because Culombe had told his and put the blame entirely on Taborsky.

Q. Anything further? A. She continued to plead with him to tell the truth. I talked to Joe Taborsky.

Q. You mean in the mother's presence then and there? A. Yes, sir, and this went on for quite a few minutes, and finally, at his mother's request, Joe said he was implicated.

Q. Now, after he said he was implicated, what happened? A. His other asked him to what extent, and Joe told her in my presence.

Q. And other incidents other than this New Britain were discussed, were they not?

MR. BURKE: I object to it because —

THE COURT: I will sustain it; you don't have to.

Q. Was the New Britain matter discussed? A. Yes, sir, it was.

Q. What did Joseph Taborsky tell his mother concerning that incident, if you remember? A. He said the other fellow shot the attendant - killed the attendant.

Q. Anything else about it? A. That they robbed the attendant and the customer. He admitted - he told his mother he shot and killed the customer and robbed him.

Q. At the conclusion of this conference what happened?

THE COURT: Maybe that is a good place to stop. You may escort the accused from the courtroom. May I have order?

Ladies and gentlemen of the jury, you are not to talk about this case with anyone, nor allow any one to talk to you about it. Should there be anything in the papers, you are not to read about it tonight. You can read the papers, but you must not read anything about this case. Should there be any comments on radio or television you will ignore them. When you come back tomorrow morning at 10:00 o'clcok, report to your jury room, if you will, and you report to the alternates' room. You are now excused until tomorrow morning at 10:00 o'clock. You may retire.

Adjourn court, Sheriff, until tomorrow morning at ten o'clock.

JUNE 19, 1957 - 10:15 A.M.

THE COURT: Bring up the accused, please. Has the attendance been taken?

ASSISTANT CLERK COBURN: Yes, Your Honor.

(Accused present)

THE COURT: Will you call the jury, Sheriff, and the alternates, please?

(Jury and alternates present)

THE COURT: Good morning ladies and gentlemen. Are you ready to proceed, Mr. Bill?

MR. BILL: Yes, Your Honor.

SAMUEL ROME, resumed the stand and testified further as follows:

MR. BILL: May I bring the Court and jury's attention to what took place when we closed, so that it will have some continuity?

THE COURT: Go ahead, Mr. Bill.

MR. BILL: "Was the New Britain matter discussed?

"A. Yes, sir, it was.

"Q. What did Joseph Taborsky tell his mother concerning that incident, if you remember? "A. He said that the other fellow shot the attendant, killed the attendant.

"Q. Anything else about it? "A. That they robbed the attendant and the customer. He admitted - he told his mother he shot and killed the customer and robbed him.

"Q. At the conclusion of this conference what happened?"

That's the question that was pending when court closed yesterday.

THE COURT: Now, for obvious reasons we have a fan here. I am sure that you don't disapprove of it but it may result in your not being able to hear, particularly toward the end of the jury box. If you have any difficulty will you let me know. Will you read the last question?

(Last question read by reporter)

A. Mrs. Taborsky left the room and I asked that Detective Vincent O'Brien and Captain Schwartz come in, in order that we might take a statement in writing from Joseph Taborsky.

DIRECT EXAMINATION BY MR. BILL: (RESUMED)

Q. And that was done? A. It was.

Q. And was a statement taken concerning the New Britain affair? A. Yes, sir, it was.

Q. And how was that taken? In what form?
A. Question and answer.

Q. And who gave the questions? A. I did.

Q. To Joseph Taborsky? A. Yes, sir.

Q. And he answered, was that it? A. Yes, sir.

Q. And was it taken by Detective O'Brien? A. Yes, sir.

Q. In question and answer form? A. Yes, sir.

Q. Now, I show you State's Exhibit DD for identification and ask you if you recognize that? A. Yes, sir.

Q. And what is it? A. That is the transcription made by Detective O'Brien of the statement taken in shorthand by him on the evening of March 1st.

Q. And have you been over this statement? A. Yes, sir.

Q. Before Court at some time? A. I have read that statement before.

Q. You have read that statement? A. Yes, sir.

Q. And can you identify it as being the statement of Joseph Taborsky that was given that Friday night,

March 1st? A. That is the statement.

Q. You look it over. Look over each page and be sure. A. Yes, sir.

Q. Is that the statement? A. That is.

Q. Now, was that signed by Joseph Taborsky? A. Yes, sir, it was, at a later date.

Q. And when? A. The following Sunday.

Q. That would be March 3rd? A. Yes, sir.

Q. At what time, about? A. I believe that it was in the afternoon, at the State Police Barracks.

Q. And who was present? A. I am not certain.

Q. Can you tell from the witnesses on the document? A. Yes, sir. Officer Frank Shea and Sergeant Donald Paige and myself.

Q. And he signed in your presence, did he? A. Yes, sir, he did.

Q. And what are these initials that appear on each page? A. Joseph Taborsky, after reading and I reading a copy of this aloud, initialed each page after he finished reading it.

MR. BILL: I offer that.

MR. BURKE: My objection is on the record, if Your Honor please, and I would object again.

THE COURT: Yes, and I have already ruled that I will admit it, so I will overrule your objection and admit it.

MR. BURKE: May I have an exception?

THE COURT: Yes, you may have one now if you need it, but in any event, you have taken an exception to that ruling and your exception may stand for the same reasons already in the record.

MR. BURKE: Yes, Your Honor.

THE COURT: Unless you feel that you should restate them.

MR. BURKE: No, my objection is based on the same reasons already given to the Court.

THE COURT: May be marked a full exhibit in the case of Joseph Taborsky.

(Statement of Joseph Taborsky, previously marked "State's Exhibit DD for Identification, Case No. 21665" received in evidence as a full exhibit.)

MR. BILL: If it please the Court, ladies and gentlemen of the jury, State's Exhibit DD, case No. 21665, Taborsky, reads as follows:

In the upper lefthand margin S-152-M, March 1st, 1957, 6:30 P.M.

"Interrogation of Joseph L. Taborsky at State Police Headquarters. Present: Capt. Schwartz, Lieut. Rome, Det. Sgt. Paige, Off. Reimer, Det. O'Brien and Joseph L. Taborsky. Questions Lieut. Rome. Answers Joseph L. Taborsky.

"Q. Where did you go from there? "A. New Britain.

"Q. Who drove? "A. He did.

"Q. Did you stop anywhere in New Britain?
"A. Yes.

"Q. Where? "A. Gas station.

"Q. For what purpose? "A. To get some money.

"Q. And this somebody drove - where did somebody park his car in that gas station? "A. At the gas pump.

"Q. Headed toward Hartford or New Britain?
"A. Toward Hartford.

"Q. What kind of gas? "A. It is a different kind of gas than you see in Hartford, I know that.

"Q. Do you remember the kind? "A. Flying arrow or flying horse.

"Q. It has some wings? "A. There is some kind of wings.

"Q. Riding toward New Britain, which side of the road? "A. Left.

"Q. You went into the place? "A. We got gas.

"Q. How much gas did you buy? "A. I don't know, because I didn't wait to find out.

"Q. How many persons were in the place? "A. One.

"Q. Just the attendant? "A. Yes.

"Q. How was he dressed? "A. I think he had a cap with a black visor.

"Q. Gas station attendant's cap? "A. I think it was.

"Q. How else was he dressed if you remember? "A. No, I can't.

"Q. And he was giving this friend some gas and you went into the station for what purpose? "A. I told him I wanted to go to leak.

"Q. Did you go to the toilet? "A. I went in and after I got in there the other guy came marching in.

"Q. With the attendant? "A. Yes.

"Q. Was the attendant obeying an order or coming in on his own? "A. Obeying an order.

"Q. Why was he obeying an order? "A. He was being forced to with a gun.

"Q. Someone who came to New Britain with you had a gun? "A. Yes.

"Q. What did this someone do? "A. Made him go into a room with oil cans.

"Q. What else was in that room? "A. I don't know because I didn't go in.

"Q. Did the someone with the attendant go into the room? "A. Yes.

"Q. Did you hear noises? "A. Yes.

"Q. What kind of noises? "A. Shots.

"Q. How many? "A. I think one.

"Q. And did that someone come out? "A. Yes.

"Q. Did the attendant come out? "A. No.

"Q. Did you look in to see what happened to the attendant? "A. I was told.

"Q. What were you told? "A. That he was under some cartons.

"Q. What were you doing when the shot was fired? "A. Looking for money.

"Q. Did you find any? "A. Yes.

"Q. Where? "A. The register.

"Q. Was the register open or closed? "A. I think it was closed because I couldn't open it for some reason.

"Q. Did you open it? "A. Yes.

"Q. With what, did you press a key or force it open? "A. I think it had to be forced open.

"Q. What did you do with that money? "A. Put it in my pocket and looked in the desk and found some

more money near the desk I think and looked through some boxes and things.

"Q. Search a cabinet? "A. Yes, we looked around.

"Q. You and the other fellow both looked around? "A. Yes.

"Q. And something else happened? "A. Somebody pulled up to the gas station.

"Q. What did you do? "A. I said 'Wait a minute and he will go away.'

"Q. Did he go away? "A. He stayed there and I waited a minute and went out and brought him in.

"Q. What kind of car? "A. I wouldn't remember the make, it was green, it might have been a Dodge. I don't know too much about the makes of cars.

"Q. Who was in the car? "A. Man and a child.

"Q. Was it male? "A. I think it was a girl.

"Q. How old? "A. 3 or 4.

"Q. Did you have a conversation with this man? "A. No.

"Q. You did say something to him? "A. Just told him to get in the toilet.

"Q. Force him? "A. Yes.

"Q. How? "A With a gun.

"Q. What kind? "A. I think it was a .38, it could have been a .32.

"Q. Where did you get this gun? "A. From somebody.

"Q. From the somebody that was with you? "A. Yes.

"Q. How many guns did you have on your person? "A. I only had one.

"Q. Did this man obey your order? "A. Yes.

"Q. Did he go in the toilet? "A. Yes.

"Q. You followed him in there? "A. Yes.

"Q. The gun still pointed at him? "A. Yes.

"Q. What did you do when you got in the toilet? "A. Shot him.

"Q. What part of his body? "A. The forehead or the side of the forehead.

"Q. Can you point? "A. Just above the ear.

"Q. Was he standing? "A. Yes.

"Q. Did he drop immediately? "A. Yes.

"Q. How many times did you shoot him? "A. Twice.

"Q. And both times in the same place, right around the same place, and he fell to the floor? "A. Yes.

"Q. Do you remember what position he landed in? "A. I think on his side.

"Q. Lying flat. "A. On his left I think.

"Q. Did you search this man? "A. I got his wallet before he went in there.

"Q. What point did you get his wallet? "A. As soon as I put the gun on him on the outside I took his wallet.

"Q. Outside the ga station you took his wallet, did any cars ride by? "A. No.

"Q. After this man dropped what did you do? "A. I said 'Let's go' and we went.

"Q. What did you do with the guns? "A. Had them with us.

"Q. What did you eventually do with the guns? "A. Gave it to somebody" -

That was singular. "what did you eventually do with the gun."

"Q. Did you go to someone's house? "A. Yes.

"Q. Was the money divided there? "A. Yes.

"Q. What was your share, what was the total? "A. It wasn't too much.

"Q. Was it $10.00 or $100.00 or $200.00? "A. It was near $100.00, I don't know.

"Q. You got half? "A. Yes.

"Q. Did someone also take a wallet from the person, the attendant he shot? "A. Yes.

"Q. How much was in that? "A. It wasn't much I don't believe.

"Q. Do you remember how much was in the wallet you took from your man? "A. $4.00.

"Q. What did you do with the wallets? "A. Somebody else got rid of them.

"Q. What did you do with the guns? "A. I gave them back to this person.

"Q. Did you tell him to get rid of it or just hide it? "A. He said he would get rid of it."

In handwriting is the following: "I have read the above statement of eight pages and state that it is true. Joseph L. Taborsky. Witness: Samuel Rome, Donald Paige, Frank Shea. No. 254.

Q. Now, Lieutenant, was the taking of this statement all that was done that evening of March 1 in relation to this New Britain incident? A. Yes, sir.

Q. And what happened, if anything, on Saturday, the next day insofar as Taborsky was concerned? A. I can't recall at this moment.

Q. Did you at anytime visit —

MR. BURKE: I object to this as leading.

Q. I will ask a general question, Your Honor. Regardless when it was, did you at anytime visit Kurp's gas station with Taborsky? A. Yes, I did.

Q. When was that? A. The following day, Saturday.

Q. And who went with you? A. Captain Schwartz, Detective O'Brien and Detective Joseph Jasonus.

Q. Were any New Britain Police Officers there present when you arrived? A. They met us in New Britain - Captain Joseph Kelly and Sergeant Stephen Coffey and others.

Q. What happened, if anything, when you got to the station with Taborsky? A. Taborsky directed us down Stanley Street, told us they went passed the station and the other fellow turned his car around and turned into the station. He told us where they parked their car - told us to park our car just where he said the other fellow parked the car on the night of December 15th.

Q. Where was that? A. Between the pumps and the gas station, headed north toward Hartford.

Q. Continue. A. We stepped out of the car into the gas station, and he pointed to the door straight ahead which led - I knew led to the boiler room - and he said

that was where the other fellow took the attendant, so then he showed us the place in the toilet where he had taken the customer and showed us the corner as you enter this toilet and to the left or on the northeast wall where the attendant stopped where we had previously found a spot of blood on it - on the wall - and pointed to that corner and he said that is where he shot the attendant and showed us where the attendant - the customer, rather, fell.

Back in the station itself he commented on the fact that the station was changed a bit, that the cash register now wasn't where it was the night he and the other fellow went up to the station and held it up, and that the stacks of tires that were there that night were not present in the same position.

Q. Anything further? A. He showed us outside again where the other fellow - the customer - had parked his car with the child in it, and then he told us the direction of travel back to Hartford.

Q. What direction did he explain to you as to the position of the car of the customer? A. The customer's car was parked in the opposite direction, headed toward the center of New Britain, and their car was on the inside of the pumps between the pump and the gas station headed toward Hartford.

MR. BILL: Your witness.

THE COURT: Mr. McDonough?

CROSS EXAMINATION BY MR. McDONOUGH:

Q. Lieutenant, Wednesday afternoon, when Culombe signed the confession that has been admitted into evidence before the jury, his signing of this confession was the result of his cooperation on that day, wasn't it? A. I didn't hear the first part of the question.

THE COURT: Read it, Mr. MacGlashan.

(The reporter read the question.)

A. Yes, sir.

Q. That was the turning point in the solution of this New Britain murder case, wasn't it? A. No, sir.

Q. I beg your pardon? A. No, sir.

Q. Will you keep your voice up? I am deliberately asking questions from this point, Lieutenant, so that everyone up this end of the courtroom can get your testimony - not to make it more difficult.

Culombe's confession on Wednesday afternoon made the work of you and your detail of police a great deal easier, isn't that true? A. That is true, yes, sir.

Q. And it eventually led to a confession by Taborsky?
A. Taborsky eventually confessed.

MR. BURKE: I object to that. It doesn't have any place in Culombe's case.

MR. McDONOUGH: This isn't Culombe's case anymore. It is the case of State against Culombe and Taborsky.

THE COURT: I will sustain his objection insofar as it applies to State versus Taborsky, and it is the same situation almost as I discussed with you yesterday. This evidence Mr. McDonough is now developing is to be considered on in the case of State versus Arthur Culombe and to be disregarded by the jury entirely in the case of State versus Taborsky, concerning which I will tell you more in the charge.

MR. BURKE: That question was for the purpose of helping Culombe. I will note an exception to Your Honor's ruling.

THE COURT: Yes. I didn't sustain the objection to the question in your case, Mr. McDonough.

MR McDONOUGH: Then I want it read if I can get it into the record.

THE COURT: You may have the exception, Mr. Burke. Would you read the question again, Mr. MacGlashan?

(The reporter read the question.)

Q. Is that right, Lieutenant? A. That is correct.

Q. Now in your testimony under examination by Mr. Bill you said that Culombe's wish was that he stay with you at the barracks. Tell us just what Culombe said in respect to that. A. Culombe said he wanted to continue to cooperate and he would prefer to stay at the barracks.

Q. Did he give reasons for preferring to stay at the barracks? A. Yes.

Q. What was the reason he gave? A. He felt he would be safe from Taborsky.

MR. BURKE: May I have that stricken, Your Honor? It is prejudicial —

THE COURT: You don't need to argue. It may be stricken and the jury will disregard it and that evidence is not to be considered by them at all in the case of State versus Taborsky and is limited to the case of State versus Culombe.

MR. McDonough: But it does stay in the Culombe case?

THE COURT: That is just what I meant to say.

MR. McDONOUGH: That is all.

CROSS EXAMINATION BY MR. BURKE:

Q. Lieutenant, you first picked up Taborsky on Saturday afternoon, did you not? A. I did not.

Q. You had him picked up and brought to your office at the barracks? A. Yes, sir.

Q. And from that point he was in your custody? A. From the time of his arrest he was in my custody.

Q. He was in your custody in the afternoon, was he not, at the barracks? A. I didn't consider it so, no, sir.

Q. He wasn't free to move around and leave as he pleased? A. I thought he was.

Q. You would permit him to go out of the place if he wanted to? A. I don't know. He wasn't in my custody. He was not under arrest.

MR. BURKE: May I have the answer stricken and the question read?

THE COURT: Yes, the answer may go out as not responsive. Read it, Mr. MacGlashan.

(The reporter read the question.)

A. Yes.

Q. Now, that night he was then placed under arrest by you, Lieutenant? A. That is right.

Q. And you told him the reason he was being placed under arrest? A. I did.

Q. Did you tell him the charge for which he was arrested? A. Yes, sir.

Q. What was the charge? A. Suspicion of a felony.

Q. And you then locked him up in a cell shortly thereafter? A. He was locked up, yes.

Q. You have a log book, do you, Lieutenant, which shows when men are locked up and why they are locked up when the police lock them up? A. Yes, sir, the barracks has a log book, but the Special Services Division

doesn't necessarily follow the practice of the barracks. We have a log book.

THE COURT: I don't think you heard the last part of that, Mr. Burke. Will you read it?

(The reporter read the last answer.)

Q. You made no notation at all of your retention of him, did you, Lieutenant? A. No, only in my final report to the State's Attorney.

Q. I am asking about the log book, did you make a notation in the log book? A. No, sir.

Q. You didn't present him in Court on Monday, did you? A. No, sir.

Q. Now, Saturday and Sunday nights he was in the State Police barracks? A. Late, that is, yes, sir.

Q. And in that cell there wasn't any facility for cleaning up, was there? A. Yes, sir, there was.

Q. Was there a stopper in the sink? A. There was material you could use for a stopper.

Q. Was there a stopper in the sink, Lieutenant?
A. Not what you would call a stopper, no, sir.

Q. And the sink has a plunger that you must push with your hand to draw the water? A. Yes, sir.

Q. So that unless you were able to hold your hand on the faucet and wash with your other hand, you couldn't wash, could you? A. No, sir.

Q. And he couldn't wash himself for two days, could he? A. Yes, sir.

Q. And he complained to you in the morning of being cold? A. No, sir.

Q. And dirty? A. No, sir.

Q. Didn't you testify he did complain and you gave him a blanket? A. I testified he said he had only one blanket and I gave him another one.

Q. You testified he said he was cold and you went into the next cell and got him another blanket? A. I don't recall that testimony.

Q. We will check it. Anyway you didn't present him before any Magistrate or other authority as the statute provides on Monday, did you?

MR. BILL: Objection, Your Honor.

THE COURT: I will sustain the objection on form.

Q. Did you present him to any Magistrate or other proper authority on Monday? A. I brought him to the New Britain Police Department where he was booked.

Q. Did you bring him to Court in Hartford? A. No, sir.

Q. Did you bring him to Court in New Britain?
A. Yes, sir, on Tuesday.

Q. You didn't take him to New Britain on Monday?
A. I am sorry - not on Monday.

Q. You knew the Courts were open, didn't you?
A. I could gues they were.

Q. You knew the statute says you must promptly bring him before a proper authority, you knew that, too, didn't you? A. That I know, yes, sir.

Q. You brought him to the Police Station you say?
A. Yes.

Q. And had him booked on breach of the peace?
A. Yes, sir.

Q. And the Court issued a mittimus, didn't it?
A. No, sir.

Q. The Court didn't issue a mittimus? A. Not on Monday.

Q. When did it issue a mittimus? A. On Tuesday.

Q. On Monday, then, where did you take Taborsky after this booking at the Police Station?

THE COURT: Will you read that question, Mr. MacGlashan?

(The reporter read the question.)

A. Over to the State Police barracks.

Q. You took him into the gas station in New Britain, didn't you? A. No, sir, didn't stop at the gas station.

Q. You went into it - into the yard? A. Yes.

Q. To take a look around? A. Yes.

Q. And you had him look into this station, too, didn't you? A. No, sir.

Q. Then after you left the station you went back to Hartford to the barracks? A. Yes, sir.

Q. And kept him in the barracks that night?
A. Yes, sir.

Q. Did you tell him he was under any kind of bond?
A. Yes, sir.

Q. When did you tell him that, Lieutenant?
A. In the New Britain Court.

Q. I am talking about Monday, Lieutenant. The Court was on Tuesday. Did you tell him on Monday he was under any bond? A. Yes, sir.

Q. What time did you tell him? A. Before he was booked.

Q. Who told him? A I am of the opinion the desk sergeant did.

Q. Did you tell him? A. I don't recall having told him.

Q. You didn't tell him, did you, Lieutenant? A. I don't recall.

Q. You didn't? A. I don't recall.

Q. You took him back and locked him up again, didn't you? A. I did.

Q. And then on Tuesday you took him over to New Britain to the Court? A. Yes, sir.

Q. And in the Court he didn't plead to anything, did he? A. To my recollection I don't know.

Q. You were there, weren't you? A. I was.

THE COURT: Wait a minute, Mr. Burke. Sheriff, we can't have that.

(The reporter read the last question and answer.)

Q. Didn't you see what was going on, Lieutenant? A. I saw what I was looking for.

Q. Did you see him presented to the Judge? A. I don't recall.

Q. You don't recall that. Did you see him taken out of the cage at all? A. I had him removed from the cage.

Q. I am not talking about that - I mean to be presented to the Court? A. No, sir.

Q. Did you at that time tell him what his bond was? A. In the presence of his mother and sister Joseph Taborsky and I - I discussed with his mother —

MR. BURKE: May I ask that the answer go out and may I have the question?

THE COURT: Well, I don't know whether he finished.

Had you finished Lieutenant?
A. No, sir.

Q. Would you finish it? A. Discussed the feasibility of calling an attorney.

THE COURT: All right. Now do you want to renew your motion?

MR. BURKE: Yes, Your Honor.

THE COURT: I will grant it and you may read the question.

(The reporter read the question.)

A. Yes, sir.

Q. Where did you tell him? A. At that time in the prosecutor's office.

Q. How much did you say his bond was?
A. Twenty-five thousand dollars.

Q. You told him that there? A. Yes, sir.

Q. And then you took him out of there and brought him back to Hartford? A. Yes, sir.

Q. You got a mittimus from the Court, didn't you?
A. Yes, sir.

Q. To lock him up in the County Jail? A. That is correct.

Q. Did you lock him up in the County Jail? A. Yes, sir.

Q. You brought him back to the barracks, didn't you?
A. Yes, sir.

Q. How long did you hold him before you took him to the jail? A. The number of hours I don't know, but he was locked up that night.

Q. You didn't commit him to a jail under the Court's order? A. I felt I did.

Q. Until that night? A. Yes, sir.

Q. All right. Now, you have him in the jail and you let him alone then until Thursday, sometime, didn't you? A. Yes, sir.

Q. And brought him over here? A. First to the barracks.

Q. All this time he was asking for an attorney, wasn't he? A. No, sir.

Q. Didn't ask for any at all? A. He did not.

Q. You knew he was in trouble before, didn't you? A. I had heard.

Q. Didn't he tell you he wanted Nathaniel Bergman for a lawyer? A. He did not.

Q. You want the Court and jury to believe that man didn't ask for a lawyer all the time he was there with you, Lieutenant? A. Yes, sir, that is the truth.

Q And you brought him back to the barracks when - Thursday - Friday? A. He was returned to the barracks Thursday afternoon. I am sorry - he was returned to the County Jail Thursday afternoon from the barracks.

Q. And where did you hold him on Thursday - during Thursday morning over at the barracks? A. He was brought to the barracks Thursday morning and he was brought to Court here later Thursday morning and returned to the barracks after Court and later that afternoon - early in the afternoon - he was returned to the Hartford County Jail.

Q. Let me ask you this question, Lieutenant: At any time did you have a mittimus issued for you to take him from the jail without an order of the Court? A. No, sir.

Q. Do you have the order of the Court with you? A. No, sir.

Q. Where is it? A. I had a verbal order - an indirect order.

Q. You got it from a policeman, didn't you? A. I got it from Captain Kelly of the New Britain Police Court.

Q. He is not the Judge of that Court? A. He brought me a message from the Judge of that Court, yes, sir.

Q. Let me ask you this question, Lieutenant: Did you get any kind of an order from the Court - I am not asking about Kelly or anybody else but the Court - to take him from the jail? A. Yes, sir.

Q. And it was a verbal order from the Court you received? A. Yes, sir.

Q. Well, you finally brought him over to the barracks, didn't you, Friday afternoon about five o'clock or five-thirty? A. Yes, sir.

Q. At that time you had sent for his mother, hadn't you? A. She requested to come to the barracks, yes, sir.

Q. So you went out and got her in a car? A. No, sir, I afforded her transportation to the barracks.

Q. You sent a car after her, didn't you? A. That's correct.

Q. That's transportation? A. I didn't get her, sir.

Q. So you had her brought to the barracks? A. We gave her transportation to the barracks, yes, sir.

Q. When you got her to the barracks I think you testified that you prepared her to meet her son, didn't you?

A. I explained to her that her son was in the next room and she would have this opportunity to talk with him.

Q. That's what you testified before under oath, Lieutenant. You said that you prepared her. A. I may have used the word "prepared", yes, sir.

Q. And you prepared her for about a half an hour, you said? A. Or less. I don't believe that I testified a half hour.

Q. Did you say in the record "fifteen to thirty minutes?" A. Fifteen to thirty minutes would be more like it, yes, sir.

Q. And after you got her prepared you had Joseph brought up from the cell somewhere, didn't you, or in a room, or something? A. Yes, sir.

Q. Had him handcuffed to a chair, didn't you?
A. No, sir.

Q. Did you have him handcuffed to anything?
A. To himself.

Q. And then you brought his mother in? A. Yes, sir.

Q. She was a pitiful sight, wasn't she? A. I don't get your question. I don't understand the question.

Q. You understand what a pitiful sight is? A. Yes.

Q. I am asking you that question? A. I don't understand you. You are making reference to -

Q. Did she look like a pitiful sight to you when she came in to face her son? A. I didn't think so, no, sir.

Q. She was composed and calm? A. I wouldn't say that, no, sir.

Q. Highly emotional? A. No, sir.

Q. Nervous at all? A. I am certain that she was nervous, but this was the first time I ever saw the lady,

outside of New Britain Court and I didn't know whether or not this was her normal composure.

Q. She looked the same as she did in New Britain?
A. Pretty much the same, yes, sir.

Q. She wasn't emotionally upset or anything at all after you prepared her? A. That's one of the reasons for talking to her, to make certain she would not become hysterical and be a burden to us.

Q. Another reason was to convince her her son was guilty and get her to get him to confess, wasn't that another reason? A. I don't think that she needed any convincing, Mr. Burke.

Q. I asked you if that was a reason you used?
A. You will have to read that question again.

Q. Read it, Mr. Burke.

(Repeated by reporter) "Another reason was to convince her her son was guilty and get her to get him to confess, wasn't that another reason?"

A. I couldn't follow those words exactly, Mr. Burke.

Q. It is difficult to follow? I will withdraw the question. Let me ask you this simple question: You used her to get the confession, didn't you? A. It so happened that she was helpful in my obtaining a confession.

Q. But you used her to get it, didn't you, Lieutenant?
A. "Used" is a strong word. Yes, sir.

Q. Now, you knew, did you not, from talking to Joseph, of his great affection for his mother? A. Yes, sir, I did.

Q. Now, after she faced her son he completely broke down, didn't he? A. After a while, yes, sir.

Q. He cried? A. Sobbed.

Q. Then he told you the story that you wanted to hear, didn't he? A. He told his mother the story that we believed and later found out was the truth.

MR. BURKE: May I have the question and the answer, Your Honor? I think the question is not responsive.

THE COURT: I can't hear you. You want it read?

MR. BURKE: Please.

THE COURT: Read it, Mr. Burke.

(Last question and answer read by reporter)

MR. BURKE: May I have that stricken?

THE COURT: The answer may go out. Read the question, Mr. Burke.

(Last question again read by reporter)

MR. BILL: Objection, Your Honor.

THE COURT: I think the question is all right, but the witness need not answer "yes" or "no". He can answer it in his own way, but it must be a responsive answer. I will overrule the objection. You may answer it, Lieutenant, if you can. A. The answer is "yes".

Q. Now, this statement DD here, this confession, so-called, that you obtained, are all these words Joseph Taborsky's words? The answers, I mean? A. Yes, sir.

Q. He never did mention anybody's name? A. If he did it would have been taken in shorthand notes and been transcribed.

MR. BURKE: May I have the question read?

THE COURT: The answer may go out as not responsive. Lieutenant, if you understand the question you should answer it. If you don't, you may say so. Would you read the question, please, Mr. Burke?

(Last question read by reporter)

A. I don't understand the question.

Q. You understood it the first time, didn't you, Lieutenant? I will reframe it for you. Did he name anyone who was with him? Did he say that John Smith was with him, or anybody else's name? A. No, he did not.

Q. He always said "the other man" as it appears in this statement? A. Yes, sir.

Q. And you didn't ask him who the other fellow was? A. No, sir, not at that time. On the first time he told the story. I asked him. He would not mention the other man by name. He would not mention Culombe by name. So when we got to taking the statement in question and answer form I knew better and let him go along with the giving of his own statement.

Q. How long have you been a policeman, Lieutenant? A. Over nineteen years.

Q. And you didn't ask him, when you too this confession, who the other fellow was? Is that what you want us to believe.

Q. You were content to take this "other man" story as it is recited here? A. I was content to take a true statement from Joseph Taborsky.

Q. While this was going on you were prompting him pretty well, weren't you? A. I asked the questions.

Q. And you suggested the answers? A. Nothing other than is in that statement.

Q. Well, you knew that he didn't know anything about what kind of gas was sold at that station, didn't you?

A. I thought that he did, because when we were - we drove into the station from New Britain, the first time, I asked him to look around, and without looking

around, without changing - casting his eyes in any other direction, looking straight ahead, he said that he had never been here before. I felt that he should know the brand of gas. He did drive an automobile.

Q. And when you had him in New Britain in the station you noticed that little detail, his eyes were straight ahead? A. I commented to him at the time. Yes, sir.

Q. You commented? A. Yes, sir when he wouldn't look around, he says he had never been here before, I said "Look around and make certain."

Q. When he gave you the statement he still didn't know what kind of gas it was? He says here, page 2: "Flying arrow or Flying horse?" A. That's right.

Q. And you suggested that it had some wings? A. Yes, sir, I didn't suggest it. I asked him the question.

Q. What's that? A. I asked him that question.

Q. "It has some wings." It says here, page two. A. Yes, sir.

Q. That's a question? A. I meant it to be a question.

Q. After this statement was taken he was in pretty bad shape, wasn't he, semi shock, condition of semi shock? Do you understand that question, Lieutenant, or don't you? A. He gave me, a policeman, no indication that he was in shock or semi shock, no, sir.

Q. He was in pretty good shape, calm, cool? A. No, sir, I wouldn't say that, no, sir.

Q. So after you took him out of there, wherever you took him, where did you take him? Down to the county jail again. A. He went back to the county jail.

Q. Let me ask you this one more time. All the time that you had Taborsky, never once did he ask for a lawyer right up until the time that he signed this question and answer thing? A. Not of me. He asked the Court. Not of me. No, sir.

Q. Didn't ask you at all? A. No, sir.

Q. That's the way that you want to leave it? A. That's the way that it is, Mr Burke.

MR. BURKE: That's all I have from this witness.

THE COURT: Anything further, Mr. Bill?

REDIRECT EXAMINATION BY MR. BILL:

Q. At New Britain at the court on Tuesday you said that there was present Taborsky's mother and his sister? A. Yes, sir.

Q. And I think that you testified that there was some conference there. Was anything said about a lawyer at that group meeting? A. Yes, sir.

Q. And who said what? A. Mrs. Taborsky asked her son whether or not she should get a lawyer through her minister, and Joseph told his mother in my presence that he does not need a lawyer, he does not want a lawyer.

Q. Now, what did you mean by that incident of Friday night? You say that the mother called up and she was transported to the barracks. There was some expression about you met with the mother and prepared her. What did you mean by "you prepared her?" A. I talked to Mrs. Taborsky. I wanted to satisfy myself she was not going to hurt my investigation and also that she was not the hysterical type, someone who would go in the room with a son and cry, become hysterical and I'd have to get a doctor or have her removed to a hospital become a burden to us. I explained to her about it and

she was pretty much convinced, she said that she wanted to talk to her son and get the truth from him.

Q. She wanted to get the truth? A. Yes, sir.

Q. Is that what she told you? A. That is exactly what she told me, Mr. Bill.

MR. BURKE: Now, I am going to move that this be stricken unless it can be shown that what she told him was in the presence of Joseph.

THE COURT: Well, it wouldn't be, but I'll admit it only for the purpose of explanation of the story. On cross examination you have gone into the use of the word "preparation", what he meant by it.

MR. BURKE: May I have an exception?

THE COURT: Surely.

Q. And in the conference with Joseph later, did she ask him to tell the truth? A. She did. She begged him to tell the truth.

Q. She begged him to tell the truth? A. Yes, sir.

MR. BILL: Your Honor, I would like to introduce now State's Exhibit CC for identification, which are the proceedings in the case of Joseph L. Taborsky before Judge Bordon on Thursday morning, February 28th, 1957.

THE COURT: Mr. Burke?

MR. BURKE: I would like to ascertain the purpose of the offer.

THE COURT: State the purpose, Mr. Bill.

MR. BILL: The purpose is to show, as will be shown from the proceedings, that the matter of warning Joseph Taborsky of his Constitutional rights, which is number one; arranging for an attorney, which is number two; and placing

him under a court order, Taborsky, in the custody of Commissioner Kelly for the further purposes of investigation.

THE COURT: What do you say, Mr. Burke?

MR. BURKE: I object to it, Your Honor.

THE COURT: What is the objection?

MR. BURKE: The objection is that it has no relevancy here, and on top of that I don't see - I say it is hearsay, number one. I say, number two that it is not relevant.

MR. BILL: May I answer that, Your Honor.

THE COURT: Yes.

MR. BILL: Of course, this isn't hearsay. The accused stood up here in this courtroom and heard the judge warn him of his Constitutional rights, and all the things that were said here were said to the accused by the Court.

THE COURT: May I look at it again, Mr. Bill?

MR. BILL: You would like to look at it?

THE COURT: Yes, because my recollection is that there are some things there that perhaps are not relevant.

THE COURT: I will overrule the objection.

MR. BURKE: May I have an exception.

THE COURT: Yes. It may be marked State's Exhibit CC in full in case number 21,655, the Taborsky case.

(State's Exhibit CC for identification marked a full exhibit - proceedings in Superior Court on February 28, 1957.)

MR. LABELLE: If it please the Court and ladies and gentlemen of the jury, State's Exhibit CC is:

No. 2165

State	Superior Court
v	County of Hartford
Joseph L. Taborsky	Fedurary 28, 1957

Before: Hon. Abraham S. Bordon, Judge.

Appearances:

Douglass B. Wright, Esq., For the State — The Accused - pro se

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MR.WRIGHT: Your Honor will recall that early this morning a bench warrant was issued in this case and this bench warrant has now been served and I have the endorsement of the state police officer who served the bench warrant. Joseph L. Taborsky is now before the Court and at this time, Your Honor, I make a motion to the Court that Sheriff Potter be commanded to release Joseph L. Taborsky into the custody of John C. Kelly, Commissioner of State Police, or his deputy, for the purpose of further investigation, following which investigation said Joseph L. Taborsky shall be returned to the Hartford County Jail. At this time, Your Honor, I imagine that it is encumbent upon the Court to hear from Joseph L. Taborsky as to his wishes in the matter.

THE COURT: Taborsky, you have been arrested pursuant to a bench warrant by this Court. Under this warrant you are charged with murder in the first degree. You have certain rights which you are entitled to assert. The federal, state constitutions and the laws of this state give you certain rights and immunites which you are entitled to have observed. You don't have to speak or say anything if you don't wish to do so. You cannot be forced to to do so by the police. First of all, do you have an attorney?

THE ACCUSED TABORSKY: No, sir.

THE COURT: Do you wish to select an attorney of your own or do you wish the Court to assign an attorney to you?

THE ACCUSED TABORSKY: If you assign one right this minute, yes.

THE COURT: Whom do you wish? Do you have any choice?

THE ACCUSED TABORSKY: I have a choice but I don't know if he would be available.

THE COURT: Who is your choice?

THE ACCUSED TABORSKY: Nathaniel Bergman.

THE COURT: You don't know whether he is available or would wish to act for you?

THE ACCUSED TABORSKY: I don't know.

THE COURT: Well, Mr. Bergman will be contacted and it will be ascertained whether he wishes to represent you. If he does not you may select anyone else that you wish, or the state will assign one to protect your rights. If Mr. Bergman is not available do you wish the public defender to act for you - Mr. Cosgrove?

THE ACCUSED TABORSKY: No, sir.

THE COURT: Now, in the course of the investigation by the police of the crime with which you are charged it may be necessary for them to ask you questions. You do not need to answer those questions unless you wish to do so voluntarily. Do you wish to cooperate with the police in their investigation or do you wish to stand on your rights and say nothing?

THE ACCUSED TABORSKY: I don't know anything, sir.

THE COURT: All right. Why do you feel that you need this motion, Mr. Wright?

MR. WRIGHT: Your Honor, Lieutenant Rome of the State police is here to tell the Court why but in general the facts are that there many crimes involved in several different localities and certain things to be checked and therefore they wish to take this man around the various places.

THE COURT: I will hear Lieutenant Rome.

MR. WRIGHT: Lieutenant Rome, take the stand, please.

THE COURT: Have Taborsky sit down here.

THE CLERK: Shall I swear him, Your Honor?

THE COURT: Yes.

SAMUEL ROME, having been first duly sworn by the Clerk, testified as follows:

BY THE CLERK:

Q. What is your name? A. Samuel Rome.

Q. Where do you live? A. In Bloomfield, Connecticut.

BY MR. WRIGHT:

Q. Your occupation, sir? A. State Policeman.

Q. Your rank? A. Lieutenant.

Q. Have you been working on this case involving Joseph Taborsky? A. Yes, sir, I have.

Q. Is it your desire to take Joseph Taborsky from the County Jail to make further investigation? A. Yes, sir, it is.

Q. Will you tell the Court why? A. Your Honor, there are several crimes committed in this county which need further investigation and from time to time we feel

it will be necessary to have the accuser meet the accused here and give him an opportunity to deny or affirm any bit of information or evidence we might obtain, and should Joseph Taborsky at any time wish to cooperate we want to give him that opportunity.

Q. How would you treat this man in your custody? A. The same as he has been treated since we first arrested him, and that is the treatment, the best we could give or afford any prisoner.

Q. Would you return him to jail at night or where would you keep him at night time? A. Depending upon his situation. It is my opinion now he would be returned to the County Jail at night.

Q. Would he receive regular meals? A. Yes, sir.

Q. Would he receive rest from questioning? A. Yes, sir.

Q. You understand that he does not have to talk to you unless he wants to? A. I do.

Q. All right, Lieutenant.

MR. WRIGHT: Does the prisoner Taborsky wish to ask any questions?

THE ACCUSED TABORSKY: Would I be able to wash up like I haven't been able to for almost a week?

THE WITNESS: If you had made that request it certainly would have been complied with. I don't know that you have made such a request.

THE ACCUSED TABORSKY: Well, you can see my beard on my face.

Q. Will you give this man every opportunity to wash up and shave and rest? A. The same as the police officers. He has had his rest and opportunity to clean and attend to his toilet the same as the officers who were investigating him.

Q. Would you accede to all his reasonable requests?
A. Yes, sir.

MR. WRIGHT: Any further questions, Taborsky?

THE ACCUSED TABORSKY: I would like to have an attorney at the police station.

THE COURT: We will contact the attorney whom you mentioned - Mr. Bergman. If he does not wish to act for you you will notify the police whom you wish other than Mr. Bergman. If Mr. Bergman wishes to act for you he will act for you and he will see to it that all your rights are protected. If Mr. Bergman does not wish to act you will notify the police whom you would like to represent you. Do you have anybody else in mind in the event Mr. Bergman is unwilling to act?

THE ACCUSED TABORSKY: I have no money so if Mr. Bergman declines to represent me there is no attorney that would just come down on my say so, and I definitely don't want the public defender, so - -

THE COURT: If you will select one other than Mr. Bergman or Mr. Bergman I will appoint him as public defender to act for you and to protect your rights. I want to make sure that whoever is acting for you, if he is available, is someone whom you want to act for you. I will have Mr. Bergman contacted immediately.

THE ACCUSED TABORSKY: Well, - excuse me.

THE COURT: And if he wishes to act, why that will settle the matter. You will have Mr. Bergman, but if he

doesn't wish to you may make your wishes known as to an alternate. Do you have anybody in mind now?

THE ACCUSED TABORSKY: Mr. Burke or Mr. McDonough.

THE COURT: You mean Wallace Burke?

THE ACCUSED TABORSKY: Yes, I believe that is his name.

THE COURT: I don't believe Mr. McDonough will be available to you right now, but if Mr. Bergman is unwilling to assume the defense of this case we will contact Mr. Burke. If he is willing to, why we will see that he gets in touch with you as quickly as possible.

THE ACCUSED TABORSKY: Thank you.

THE COURT: Do you wish to ask any other questions of the officer?

THE ACCUSED TABORSKY: No, I believe not.

THE COURT: I believe it is important for the state to have this man available to the police department for further investigation of the case against this man and any charges that are being made.

MR. WRIGHT: I bring to Your Honor an order which has been drawn and ask that the Court pass this order. I will hand a copy to Taborsky.

THE COURT: Now, Taborsky, I am passing an order now ordering the sheriff to release you in the custody of

Commissioner Kelly for the purpose of further investigation of the case against you. In the course of the investigation made by the police you have all the rights that I have already indicated. You need make no statement. Anything that that you do say or any statement that you do make may be used against you in the trial of the case against you, but you are not required to make any statement. In fact, I will admonish the police to use no force or make you no promises or do anything which will obtain a statement from you that is involuntarily. If you wsh to make any statement voluntarily you may do so. If you don't wish to do so you may keep quiet and say nothing and nobody can make you do anything or say anything, and I am sure that the police will observe all your rights. You will be treated, I am sure, properly and accorded all the rights the law entitles you.

"The motion of the State's Attorney is granted."

MR. BURKE: May I again ask Your Honor to strike that and admonish the jury not to pay any attention to it in that it is prejudicial in that it mentions other crimes, I want it as a further ground in the record.

THE COURT: Insofar as it mentions other crimes I will grant the motion to strike.

MR. BURKE: I feel the whole thing is prejudicial and the harm has been done, but I want that in the record anyway.

THE COURT: So far as it refers to other crimes, if it does, and I believe it does, I will strike it out and instruct

the jury they are not to consider this fact at all. We are only concerned in this trial, insofar as this trial is concerned, with the case of State versus Joseph Taborsky under the indictment he is being tried under. The rest of the motion I will deny.

MR. BURKE: Exception

THE COURT: Surely.

MR. BILL: At this time, Your Honor, I would like to offer as a full exhibit Taborsky Defendant's Exhibit 3 for identification. That is the warrant and proceedings in the New Britain Police Court.

THE COURT: Any objection?

MR. BURKE: Are you offering it as your exhibit or mine?

MR. BILL: As mine.

THE COURT: Is there any objection?

MR. BURKE: No, we are agreed.

THE COURT: This will be Exhibit HH. Is it marked Defendant Taborsky's Exhibit for idenification?

MR. BURKE: Yes.

THE COURT: That may be stricken off and it may be marked State's Exhibit HH in the case number 21,665.

(Warrant and proceedings in New Britain Police Court marked State's Exhibit HH.)

THE COURT: You don't want to read that, do you?

MR. BILL: I just wanted to point out some of the pertinent facts. I am not going to read them all.

If the Court please, and the ladies and gentlemen of the jury State's Exhibit HH in the Taborsky case, 21665, is the original warrant in the New Britain Police Court. The complaint is breach of the peace and the date is 2-26- it says here. The plea is - none. Adjourned to March 5, 1957 at nine o'clock. Bond twenty-five thousand dollars. Ultimate disposition: nolle.

Is there anything else in there you want to read?

MR. BURKE: I would just like to get it straightened out - this isn't the original, is it?

THE COURT: It is a certified copy?

MR. BILL: Yes, Your Honor.

THE COURT: Other than that?

MR. BURKE: Other than that, it has to do with breach of the peace which, as far as I can see, is not ruled on.

THE COURT: Other than that, you don't want to make any other comment at this time.

The accused may be escorted from the courtroom. Step down. The alternates may be excused and the jury too.

Recess, Sheriff.

(Recess at 11:30 A.M.)

* * * * *

FILE COPY

VOLUME III

TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1960

No. 161

ARTHUR CULOMBE, PETITIONER

vs.

CONNECTICUT

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF ERRORS OF THE STATE OF CONNECTICUT

PETITION FOR CERTIORARI FILED MAY 12, 1960

CERTIORARI GRANTED JUNE 20, 1960

State of Connecticut

Supreme Court of Errors

HARTFORD COUNTY

OCTOBER TERM, 1958

4717

STATE OF CONNECTICUT

vs.

JOSEPH L. TABORSKY

and

ARTHUR CULOMBE

JOINT APPENDIX OF APPELLANTS AND APPELLEE

VOLUME 3 OF 3

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ROBERT RIEMER, having been previously sworn was recalled by the State and testified as follows:

DIRECT EXAMINATION BY MR. LaBELLE:

Q. You are a member of the State Police Department, Officer? A. I am, sir.

Q. How long have you been a member of that department? A. Just over five years, sir.

Q. And in the course of your duties as a state police officer did you participate in an investigation concerning Joseph Taborsky that had to do with an affair in New Britain? A. I did, sir.

Q. When did you start that investigation?
A. I started working December 26th, sir.

Q. Were you also working on March 1st? A. I was, sir.

Q. And when did you start working on March 1st, concerning the New Britain affair? A. Approximately eight o'clock in the morning, sir.

Q. And did you also have something to do with Joseph Taborsky in the afternoon on March 1st?
A. I did, sir.

Q. And what time was that? A. I would say approximately five p.m. on Friday afternoon, March 1st.

Q. What did you do at that time as far as Taborsky is concerned? A. I accompanied Lieutenant Rome and Sergeant Paige to the Hartford County Jail.

Q. When you got to the jail what did you do?
A. Took Joseph Taborsky into our custody and brought him back to the State Police barracks.

Q. When you got to the State Police barracks where did you go? A. Up to the interrogation room in the Special Service Division.

Q. And who went to that room? A. I believe Sergeant Paige and I, and Joseph Taborsky, and Lieutenant Rome momentarily, and then he stepped out.

Q. Was there anyone else in the room when you arrived there? A. No, sir.

Q. What was your duty in connection with this matter at this time? A. Primarily a bodyguard, I believe, sir, or a guard of the prisoner.

Q. And did you stay with the prisoner while he was in the interrogation room? A. I did, sir.

Q. While you were in the interrogation room you said that Lieutenant Rome was there momentarily and left?
A. Yes, sir.

Q. And Sergeant Paige was there and you and the prisoner? A. Yes, sir.

Q. Now, did something occur there? A. Joseph was handcuffed with his hands in front of him and he sat on a chair and I sat alongside of him to the right side of him.

Q. Now, was there any discussion with Joseph Taborsky at that time concerning this investigation?
A. I don't believe I talked to anyone at all concerning the investigation.

Q. Was there a discussion at a later time with Joseph Taborsky, in your presence? A. There was, sir.

Q. And when did that discussion take place?
A. Mrs. Taborsky and Lieutenant Rome came into the room, and Sergeant Paige had just left to get a bite to eat.

Q. So you and Taborsky were there and Sergeant Paige had left? A. Yes.

Q. And Mrs. Taborsky was there? A. Was there.

Q. Were you in the room and did you observe what happened? A. Yes.

Q. Tell the Court and jury what happened when Mrs. Taborsky and Lieutenant Rome came into the room?

A. Mrs. Taborsky spoke to Joseph and asked him to tell the truth, that she still loved him, that she was still his mother and would remain his mother, or words to that effect. She also mentioned that Joseph Taborsky had been accused by the other fellow of killing all these fellows, and she wanted to know if that was true. Finally, Joseph admitted he was involved in this deed and that the other fellow had shot the proprietor of the gas station in New Britain and he had shot the customer.

Q. Can you give the conversation so far as Taborsky was concerned when he was talking to his mother? Can you recall any of the words he used? I am talking only about New Britain now. A. Yes, sir, he acknowledged he was involved.

Q. What did he say, if you know? A. I don't know word for word.

Q. You can't give it to us word for word? A. No, sir.

Q. How long did Mrs. Taborsky stay in the room?

A. I believe she was there about twenty minutes, sir.

Q. And you were present all the time she was there?

A. I was sir.

Q. And heard all the conversation that took place between Mrs. Taborsky and Joseph Taborsky? A. I did, sir.

Q. When Mrs. Taborsky left the room, what was the next thing that happened? A. Sergeant Paige, Captain Schwartz and Detective O'Brien came into the room.

Q. Did something happen when they came into the room? A. Yes, sir, Lieutenant Rome remained questioning Taborsky.

Q. And with respect to Sergeant O'Brien, what was he doing? A. He was taking notes, sir.

Q. Did you observe him taking notes? A. I saw him writing in a pad, yes, sir.

Q. When you say "taking notes", what do you mean? Can you explain that to the Court and jury? A. When Lieutenant Rome would ask Joseph Taborsky questions and Joseph would answer, Detective O'Brien would make notes of these questions.

Q. Writing down - making a record of the conversation - is that what you are saying? A. Yes, sir.

Q. I show you State's Exhibit DD in Case No. 21665 and I would like to have you read that to yourself and see whether or not it is familiar to you. With reference to the questions set forth in that exhibit, do you remember those questions? A. I do, sir.

Q. Who asked those questions? A. Lieutenant Samuel Rome.

Q. And in reference to the answers set forth in the exhibit, do you recall those answers? A. I do, sir.

Q. Who gave the answers? A. Joseph Taborsky.

Q. You didn't witness the signature on this paper, did you? A. No, sir.

Q. With reference to the questions and answers, are

those the questions and answers you said Detective O'Brien was making a record of? A: Yes, sir.

Q. And he was present in the room taking down this conversation? A. He was, sir.

Q. And did you observe him doing that? A. I did, sir.

Q. Now, was Joseph Taborsky handcuffed?
A. He was, sir.

Q. How was he handcuffed? A. His two hands were cuffed together in front of him in this manner (indicating).

Q. Was he handcuffed to you at any time? A. He was when he was brought upstairs, yes.

Q. When you were making the trip from the jail?
A. Yes.

Q. Was he handcuffed to any chair or furniture at that time? A. Not that night, no, sir.

Q. Not as far as you know? A. No, sir.

MR. LaBELLE: You may inquire.

MR. McDONOUGH: No questions.

CROSS EXAMINATION BY MR. BURKE:

Q. Officer Riemer, you say you saw Detective O'Brien taking some notes? A. Notes.

Q. You didn't know what he was taking, did you?
A. He was taking the conversation between Taborsky and -

Q. You don't know he was taking this conversation?
A. He was ordered to do so.

Q. But you don't know what he was writing?
A. No, sir.

Q. So when you say you know he was taking notes, you are confused, or you don't know? A. I am not confused.

Q. I am asking you if you know he was taking notes?
A. He was taking notes.

Q. You don't know what he was writing?
A. I don't know what he was writing.

Q. You don't know whether he was taking notes of the questions and the answers or what he was doing - I mean of your own knowledge? A. Of my own knowledge, no.

Q. You looked at the paper, State's Exhibit DD - when did you first see it? A. The other day, sir.

Q. You testified then you had never seen it before?
A. I had never seen it.

Q. You didn't recognize it, did you?

THE COURT: There are two questions pending there; Select the one you want answered.

Q. Did you recognize the paper when it was shown to you the last time? A. I hadn't seen the paper before that time, no, sir.

Q. Now you say, when Mr. LaBelle showed you this paper, these are the questions and answers you heard?
A. Yes, sir.

Q. And you want us to believe these are the exact questions that were asked and Taborsky's answers?
A. To the best of my recollection, they are, sir.

Q. And do you recall each question? A. As best I can from the time that elapsed.

Q. Do you recall this question "Did you stop' anywhere in New Britain - Answer Yes"? Do you recall that language? A. Similar language.

Q. That language? A. That language that is in the paper, yes, sir.

Q. And you recall that specifically? A. Yes, sir.

Q. And all these other questions here - you recall the language specifically? A. Not word for word, no, sir; I don't think anybody could.

Q. How do you recognize those are the questions and answers? A. Those are the line of questions.

Q. But these were not the words used? A. I can't say that.

Q. You don't know it? A. I assume they were.

Q. I am asking you if you know? A. To the best of my knowledge, yes, they are.

Q. Do you know if these are the questions Rome asked? A. If they are written down, they are the questions asked.

MR. BURKE: May I have the question read and may the answer go out?

THE COURT: Yes, the answer may go out and the question may be read.

(The Reporter read the question.)

THE COURT: Do you understand it?

THE WITNESS: Yes, sir.

THE COURT: And the answer?

THE WITNESS: Yes, sir.

Q. You remember them specifically, question by question? A. Question by question, no sir. That is the line of questioning.

Q. What you remember is that this was the tenor of the questioning? A. To put it that way, yes, sir.

Q. And you don't remember the questions, do you, or do you? A. I remember he said he shot a man, yes.

MR. BURKE: May that go out and the witness admonished not to offer answers of questions not asked?

THE COURT: Perhaps not in that language, but Officer, it would be helpful if you would answer the question asked only. Read the question.

(The Reporter read the question.)

A. Not word for word, no, sir.

Q. Do you recall the tenor of Rome's voice?
A. He was questioning the man, sir.

Q. Was it loud or soft? A. Normal.

Q. Pleading or demanding? A. Normal.

Q. Was it normal loud or normal soft? A. Normal.

THE COURT: We will have order in the courtroom.

Q. Just let me ask you this: You recall the tenor of the questions Rome was asking and the answers Taborsky gave? A. To the best of my recollection, yes.

Q. And when you looked at this paper, saw it for the first time, it immediately clicked in your mind that those were the questions and those were the answers; is that what you want us to believe? A. Yes.

MR. BURKE: I will leave it that way. That is all.

THE COURT: Anything further?

MR. McDONOUGH: No. In compliance with the request I made of Your Honor this morning, may we recess at this time until two o'clock?

THE COURT: As early as this?

MR. McDONOUGH: Yes, Your Honor please.

THE COURT: I take it there is no objection.

MR. BURKE: No objection.

MR. BILL: No objection.

THE COURT: The accused may be escorted from the courtroom.

Ladies and gentlemen of the jury, I am going to let you go for lunch at this time until two o'clock. There is a matter of business which must be taken care of. And the usual admonition: You will not talk to anyone about this case nor allow anyone to talk to you about it. If there is anything in any paper you may see, you will not read it, or any comment on radio or television. When you come back at two o'clock, report to the jury room and the alternates to your room. You may now be excused.

Recess, Sheriff, until 2:00 o'clock.

(Recess at 12:17 P.M.)

JUNE 19th, 2:00 P.M.

THE COURT: Bring up the accused, Sheriff?

(Accused present)

THE COURT: May I have the alternates and the jury, Sheriff?

(Jury and alternates present)

THE COURT: You may proceed when you are ready, Mr. Bill.

MR. BILL: Detective O'Brien.

THE COURT: Detective O'Brien recalled. You may sit down.

VINCENT J. O'BRIEN, having been presiously sworn was recalled and testified as follows:

DIRECT EXAMINATION BY MR. BILL:

Q. You are a member of the State Police Department?
A. Yes, sir.

Q. And I think that you stated, I think also in front of the jury, that you are skilled in shorthand and typing?
A. Yes, sir.

Q. Whether or not on March 1st in the evening sometime, 1957, you were present during the investigation of the case of Joseph Taborsky? A. Yes, sir, I was.

Q. And where were you? A. At State Police Headquarters, in the Special Service Division.

Q. And about what time, do you know? A. About 6:30 P.M.

Q. When you entered the room who was there?
A. Joseph Taborsky, Officer Riemer, Lieutenant Rome, Sergeant Paige, Captain Schwartz and I.

Q. Now, what took place while you were there?
A. Taborsky was questioned by Lieutenant Rome.

Q. And ultimately did you take your notebook and take down in shorthand something? A. Yes, sir.

Q. And more particularly a statement in connection with the New Britain case? A. Yes, sir.

Q. Now, I hand you State's Exhibit E, for Identification, Taborsky, and what is that? Is that your notebook?
A. It is. It is my notebook and these are the shorthand notes that I took that night.

Q. Have you been over those notes recently?

A. Yes, here in court. I looked them over in court here, that's all.

Q. You say a statement was made that you took down that night on the New Britain case. In what manner was this statement taken, in narrative form or question and answer? A. In question and answer.

Q. Who did the questioning? A. Lieutenant Rome.

Q. And who did the answering?

A. Joseph Taborsky.

Q. Did you take it down word for word as the questions and answers were given? A. Yes, sir.

Q. And then later did you transcribe those notes into typewritten pages? A. Yes, sir.

Q. I show you State's Exhibit DD in the Taborsky case and ask you if you recognize those pages?

A. Yes, sir.

Q. As what? A. This is a transcript of the notes that I took on the evening of March 1st.

Q. And when were those notes transcribed, if you remember, into the form that they are there in that Exhibit DD? A. On Sunday, March 3rd.

Q. Sunday March 3rd? Now, after they were transcribed whether or not - what did you do with them?

A. I turned them over to Lieutenant Rome.

Q. And those are the questions and answers that were given that night? A. Yes, sir.

Q. And transcribed by you? A. Yes, sir.

Q. I take it that you were not there when this document was signed? A. No, sir, I was not.

MR. BILL: Your witness.

MR. McDONOUGH: No questions.

THE COURT: Mr. Burke, any questions.

CROSS EXAMINATION BY MR. BURKE:

Q. Detective O'Brien, between the questions that Lieutenant Rome was asking was there any conversation at all between them? A. Between the questions?

Q. Yes. A. No, sir.

Q. Between one question and another? A. These were all the questions.

Q. The questions came one right after the other without any interrupting conversations at all? A. Not that I can recall.

Q. If there were any would you have taken it down in your book? A. So far as I know I took all of the conversation down.

Q. You would know, wouldn't you, if there was any and you didn't take it down? Did you take it all down, every word that was said? A. So far as I know, I did, yes, sir.

Q. Everything that was said by Rome is in the book?
A. So far as I know.

Q. What do you mean, so far as you know?
A. So far as I know every question that was asked by Lieutenant Rome and every answer given by Taborsky was recorded by me.

Q. I am talking about anything that was said by Rome, or anything that was said by Taborsky or anything else said by anybody else. Would you take notes of that.

MR. BILL: Objection.

MR. BURKE: Claim it, Your Honor.

THE COURT: I think that the question is objectionable in form. "Did he take them", might be permissible.

Q. Did you take them? A. No, sir.

Q. Were there any such conversations that you did not take? A. Not that I can recall, no, sir.

Q. You wouldn't say that there weren't any such conversations, would you? A. No, there was none that I can recall now, sir.

Q. And these transcriptions that you say are directly from your book? A. Yes, sir.

Q. You have got the book there, haven't you?
A. Yes, sir.

Q. I want you to turn a couple of pages. Let me pick out something.

THE COURT: And that book is Exhibit what, Mr. Burke?

MR. BURKE: Taborsky's Exhibit E.

THE COURT: I don't think it is, and that's what Mr. Bill calls it.

MR. BURKE: Defendant Taborsky's Exhibit 2.

Q. Will you read something from the second page and see if it conforms with this transcript? Right there where you are. A. "Did you stop anywhere in New Britain? Yes. Where? Gas station. For what purpose? To get some money. And this somebody drove - where did somebody park his car in the gas station? At the gas pump. What did you say, 'in the gas station'? Answer ' In the gas station'."

Q. Go ahead.

A. "At the gas pump. Headed toward Hartford or New Britain? Toward Hartford. What kind of gas? It is a different kind the kind, Flying arrow or Flying horse."

Q. Let's skip a couple of pages. Will you read from there? A. "Was the attendant obeying an order or coming in on his own? Obeying an order. Why was he obeying an order? He was being forced to with a gun. Someone who came to New Britain with you had a gun? Yes. What did this someone do? Made him go into a room with oil cans. What else was in that room? I don't know because I didn't go in."

Q. I think that's all right. Now, do you recall how Taborsky looked at that time? A. I think that I do, yes, sir.

Q. Are you under some difficulty remembering?
A. I didn't have much of an opportunity to observe him. I was writing in my book.

Q. Did you observe his mother, or weren't you there?
A. I wasn't there, no, sir.

Q. He was pretty well bedraggled and beaten down, wasn't he, when you saw him? A. No, sir, not in my opinion.

Q. He was cool and calm? A. Outwardly he seemed to be quite calm.

Q. What was your observation of his condition?
A. I didn't have much of an opportunity from the time that I started to write in the notebook. My attention was directed here at all times.

Q. The manner of his speech, was it hesitant and slow, or how? A. It was - as I recall it was low and a little bit slow, not fast.

MR. BURKE: I think that's all.

THE COURT: Anything further of this witness?

MR. BILL: No, Your Honor.

THE COURT: You may step down, Detective. Call your next witness.

MR. LaBELLE: Officer Fersch.

JOHN F. FERSCH, having been previously sworn was recalled by the State and testified as follows:

THE COURT: You may sit right down. For the jury, I think that he ought to give his name.

THE WITNESS: John F. Fersch.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. You are a member of the State Police Department?
A. That is correct.

Q. How long have you been a member of that department? A. A bit over fifteen years.

Q. On March 2nd, were you on duty as State Police officer at State Police Headquarters? A. I was.

Q. What time were you on duty? A. From about six in the evening until about midnight.

MR. BURKE: Excuse me, Your Honor, but do I understand that he is leaving the Taborsky case and back on the Culombe case.

THE COURT: Is that correct?

MR. LaBELLE: That is correct, Your Honor.

THE COURT: Officer, may I call to your attention the fan in back of you and will you speak up so that the jury can all hear you?

THE WITNESS: I will.

THE COURT: Go ahead.

Q. What was your assigned duty on that evening?
A. I was assigned to guard Arthur Culombe while he

was incarcerated in a cell at State Police barracks in Hartford.

Q. And where were you with relation to the cellblock?
A. I was sitting immediately in front of the cell door.

Q. What time did you commence that duty?
A. I am sorry, I didn't hear you.

Q. What time did you commence that duty?
A. About six p.m. in the evening.

Q. How long did that duty continue? A. Until about midnight.

Q. Were any other persons present in the cell block other than you and Culombe? A. As far as I recall there was no one else present.

Q. Did you have any conversation with Culombe during that period? A. Yes, I did.

Q. Were you at that time conducting any investigation in so far as Culombe was concerned? A. I was not.

Q. When you went on duty did you have a conversation with Culombe when you first got there? A. When I first entered the cell block at about six p.m. I believe I said to Culombe "Hi, Art" or words to that effect.

Q. Was there any further conversation at that time?
A. No, sir.

Q. Now, was there a continuous conversation from that point on with Culombe and you? A. Yes, sir.

Q. What were you doing while you were on duty there? A. I was sitting in a chair and I was reading a book for the greater part of the time.

Q. Did something occur as you were sitting there in the corridor? A. Yes.

Q. Tell the Court what it was, what happened?

A. At about ten p.m. that evening Arthur Culombe addressed me and said that he wished to volunteer some information relative to the events that occurred at Kurp's gas station in New Britain on the night of December 15th, 1956.

Q. And when he spoke to you what did you do?
A. I talked to him about it.

Q. And do you recall any conversation that occurred between you and Culombe at that time? A. Yes.

Q. Can you relate that conversation to the Court and jury now? A. He said that on the early evening of December 15th, 1956, he and Joe Taborsky, riding in Culombe's 1949 Oldsmobile, drove to New Britain -

MR. BURKE: Your Honor please, may I object to the statements regarding Taborsky and ask Your Honor to admonish the jury not to consider them in the Taborsky case.

THE COURT: I will sustain the objection. I will again admonish the jury that anything that was said by Culombe or anyone else in the absence of Taborsky, and particularly this that Mr. Burke is objecting to, is not to be considered by you in the case of State vs. Joseph Taborsky at all, but only in the case of the State vs. Arthur Culombe. You may proceed, Officer.

A. When Culombe and Taborsky arrived in New Britain they drove up and down Stanley Street looking for a likely place to hold up. They finally stopped at a gas station on the lefthand side of the road as they proceeded toward New Britain and they decided to hold this gas station up. Culombe drove his car to the gas pump and when the attendant came out he requested of the attendant that his tank be filled with gas. While this procedure was going on Joe Taborsky asked the attendant where the men's room was, and after being so advised left the car and apparently went into the

station. After the tank was filled Culombe said that he went into the men's room, followed the attendant into the gas station and after he got in there he put his gun on the attendant and forced him into the boiler room where he shot him. After shooting him he turned the body over and took his wallet from the attendant's back pocket.

At about this time a customer drove up to the pump, whereupon Taborsky went out to the customer and ordered the customer into the gas station at the point of a gun. Taborsky then ordered the customer into the men's room, where he shot him. After this, Taborsky and Culombe looked around the station for money, rifled the cash register and then they proceeded to drive back toward Hartford. According to Culombe, enroute to Hartford Taborsky had his gun in his lap and he said to Culombe that if they were stopped he would kill anyone who tried to do it.

MR. BURKE: I object to that statement, Your Honor.

THE COURT: I will sustain it in so far as the case of State vs. Taborsky is concerned. I have already instructed you and I do again, that that statement is not, together with any others with reference to Taborsky, in the officer's testimony, is not to be considered by you in any way in the case of State vs. Joseph Taborsky, but it is admitted in the case of State vs. Arthur Culombe.

Q. Did that complete the conversation insofar as New Britain was concerned that you had with Culombe at that time? A. I then told Culombe that I would inform Lieutenant Rome of what he had just told me.

Q. Did you inform Lieutenant Rome? A. I did.

Q. When did you inform him? A. Within a very few minutes.

Q. Did anything further happen that night - I am now

talking about the New Britain matter? A. I can't hear you.

Q. Did anything further happen that night with reference to Culombe and the New Britain matter?

A. Not that I can recall.

Q. Were you present in the barracks the next day?

A. I was.

Q. And was Arthur Culombe present in the barracks?

A. He was.

Q. Tell the Court and jury what happened the next day insofar as you and Arthur Culombe were concerned?

A. The following morning, March 3, 1957, I was present in the interrogation room at the State Police barracks in Hartford when a statement was taken from Arthur Culombe relative to our conversation as of the night before by Lieutenant Rome.

Q. Who was present in the interrogation room?

A. Arthur Culombe, Lieutenant Rome, Officer Moran and myself.

Q. Was there a conversation with Culombe at that time? A. There was.

Q. Did it have reference to the conversation you had with Culombe the night before? A. It did.

Q. Tell the Court and jury what happened in the interrogation room with reference to what Culombe told you and Lieutenant Rome and Officer Moran? A. Well, Lieutenant Rome would ask Culombe a question and reframe the answer in his own words and then ask Culombe if the answer was correct, and if Culombe assented, Lieutenant Rome would nod to me and I would type down the information.

Q. And that is the method which you just outlined?

A. Yes.

Q. Who typed that statement? A. I did.

Q. I show you State's Exhibit EE for identification and ask you if you can identify that paper?

THE COURT: Is there too much breeze on the jury - do you want the fan turned off?

THE WITNESS: That is the statement Lieutenant Rome obtained from Arthur Culombe on March 3.

Q. Is that the paper you typed up? A. It is.

Q. By following the method you have just outlined? A. That is correct.

Q. Are there signatures on the back page of that paper? A. There are.

Q. Whose signatures appear there? A. The signature of Arthur Culombe, and the witnesses Samuel Rome, Officer Moran and myself.

Q. Did you see Arthur Culombe sign that paper? A. I did.

Q. Was the paper read to him before it was signed? A. It was.

Q. Who read it to him? A. Lieutenant Rome.

Q. Were you present when it was read to Culombe? A. I was.

Q. Insofar as his signature is concerned, when was the paper signed? A. Well, it was signed after Lieutenant Rome read it to him.

Q. Was that on March 3? A. That is correct.

Q. Right after it was typed? A. That is right.

MR. LaBELLE: You may inquire.

THE COURT: Mr. McDONOUGH:

CROSS EXAMINATION BY MR. McDONOUGH:

Q. May I see that? Was Culombe restless and nervous that night when you went to work at the cell block?
A. Yes, he was.

Q. Was he alone in the cell block that night?
A. I didn't hear the question.

Q. Was he alone that night in the cell block?
A. Yes, he was.

Q. In other words, there was no other prisoner with him in that block at that time? A. That is correct.

Q. How long had you been there, Officer, before Culombe spoke to you? A. About four hours.

Q. Had Culombe done any sleeping that night before he began to talk, to your knowledge? A. Not between six and ten P.M.

Q. Was he walking up and down in his cell?
A. He was.

Q. Did he start off the conversation with you by saying that his conscience was bothering him and he had something to tell you? A. Well, those weren't the exact words, but in effect, they were.

Q. In substance that was it? A. That is right.

Q. Did he tell you that Kurpiewski, the gasoline station attendant went into the boiler room with him, pushed in by Culombe? A. I am sorry - I didn't hear that.

Q. Did he tell you that he went into the boiler room with Kurpiewski, the attendant? A. Yes, he did.

Q. And then did he tell you that -

THE COURT: I was going to suggest that we follow the same procedure we did when we had the workmen here. Let the thunder go and start over again.

MR. McDONOUGH: I think the thunder will win, so I had better quit.

MR. BILL: The Sheriff can't do much about this, Your Honor.

THE COURT: Go ahead, and if we find we can't go on we will take a recess.

Q. He said he pushed the attendant into the boiler room, didn't he? A. Words to that effect.

Q. Words to that effect, and then didn't he say that the attendant seemed to come at him and he pushed him again and then the gun went off? A. That is right.

MR. McDONOUGH: That is all, thank you.

THE COURT: Anything further, Mr. LaBelle?

MR. LaBELLE: Nothing from this witness, Your Honor.

* * * * *

LIEUTENANT SAMUEL ROME, previously sworn, recalled as a witness for the State.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. On Saturday night, March 2, did you receive a telephone call from Officer Fersch? A. Yes, sir, I did.

Q. Where were you? A. I was home.

Q. What time did you receive the call from him?
A. I think it was about ten-thirty P.M.

Q. And he related certain information to you?
A. He did.

Q. With respect to Arthur Culombe? A. Yes, sir.

Q. As a result of that information did you do something on March 3? A. Yes, sir.

Q. What did you do? A. I met Officer Fersch at the barracks the next day, March 3, and together we took a statement from Arthur Culombe.

Q. Where was that statement taken - where were you in the barracks - if you were in the barracks? A. Yes, sir - it was in the Headquarters building, the interrogation building of headquarters.

Q. Who was present when the statement was taken? A. Officer Fersch was typing it, Arthur Culombe and Officer Frederick Moran.

Q. How was this statement obtained - was it in narrative or question and answer form? A. It was narrative form.

Q. Tell the Court and jury how this statement was obtained and how it was prepared. A. I first asked Arthur Culombe if he wished to add anything to a previous statement made and he said he did, and he told me that he took the attendant into the boiler room at Kurp's gas station and told me the complete story, and then when we had paper in the typewriter ready to type this and put it into narrative form, I would ask Arthur Culombe what he did when he first arrived in New Britain and he would tell me. Occasionally I would change a word and repeat it to him and ask him if this is what he meant, and when he said yes to it, or nodded his head, I would nod to Officer Fersch, who would type this sentence and we continued that way until this second statement was taken.

Q. I show you State's Exhibit EE for identification and ask you to examine that exhibit. A. Yes, sir, it is.

Q. What is that paper? A. That is the additional statement taken by Officer Fersch and myself from Arthur Culombe on March 3 at State Police Headquarters.

Q. Is that the statement that was reduced to writing by Officer Fersch? A. Yes, sir.

Q. He typed it out? A. Yes, sir.

Q. And is that the statement that represents the questions and answers that were given and read to you - asked by you and answered by Culombe to you? A. Yes, sir, it is.

Q. And it was prepared in the manner you have described to the Court and jury? A. Yes, sir.

Q. Is there a signature on that paper? A. Yes, sir.

Q. Whose signatures appear on that paper?
A. It was signed, Arthur Culombe, witnessed, Samuel Rome, John Fersch, Frederick Moran.

Q. Were you present when Arthur Culombe signed it?
A. Yes, sir.

Q. When did he sign it? A. Almost immediately after I had read it to him.

Q. That is, after Officer Fersch had typed it?
A. After the typing was finished I read it to him and he said that was the statement, that was the story, and he signed it.

MR. LaBELLE: I offer it as an exhibit in the State versus Culombe.

THE COURT: Mr. McDonough, the exhibit has been offered.

MR. McDONOUGH: This comes under the rule Your Honor stated yesterday morning?

THE COURT: Yes, it does.

MR. McDONOUGH: There is no need of comment.

THE COURT: I will have it marked a full exhibit in the Culombe case.

(Additional statement of Culombe marked full State's Exhibit EE.)

* * * * *

"Additional Statement of Arthur Culombe

"I, Arthur Culombe, age 33, of 20 Coleman Drive, Hartford, Conn. give the following statement, without fear, threat or promise, knowing that this statement will be used against me in court.

"I was born in Fall River, Mass., on Feb. 28, 1924, the second oldest of five children born to my parents, Mr. and Mrs. George Culombe, now living in Fall River, Mass. I left grammar school while in the third grade.

"I have know Joseph Taborsky, who now lives on Hancock St., Brooklyn, New York, since 1951.

"One Saturday afternoon in December, 1956, Joseph Taborsky, came to my home at 20 Coleman Drive, Hartford. Joe knew that I had a collection of guns and he also knew that I had a 1949 Oldsmobile, color black. Joe and I went to the bedroom in my home, closed the door, and made plans to holdup some place and get some money.

"We went to Zion St. in Hartford, and from there we drove to New Britain. We arrived in New Britain roughly about 7:30 P.M. The roads were very slippery and bad. We rode on Stanley St., in New Britain looking for a place to holdup. While riding on Stanley St. toward the center of New Britain, we saw a gas station on the left-hand side of the road, that was lighted on the outside and we thought it looked like a good place to holdup. We rode past the station for a way, turned around and drove into the yard of the station and parked my car between the station and the pumps, headed toward Hartford. We sat in the car and the gas station attendant came out of the station and I told him to fill up my gas tank. It did not take much gas, he filled it up and I gave him two dollars. While he was filling my tank, Joe Taborsky

asked him where the men's room was and went inside the station. After he filled up my tank, I told him I was going to the men's room and walked inside the station. The attendant followed me in and just as soon as he got in to the door I put my gun on him. I told him that this was a stick-up and ordered him to put up his hands. He did not put up his hands, but when I told him to go into the boiler room, he did. I followed after him still pointing my gun at him. I told him to get into the right corner of this room and he did not seem to want to do what I told him, so I pushed him with my left hand. He hit the wall with his back, then he seemed to come at me and then I pushed him again and then the gun went off. I think the bullet hit him in the head, but I am not sure. He dropped to the floor in a sitting position. I lifted his body and took a wallet from his rear pocket. I left the boiler room and helped Joe Taborsky search for money. I pried open the cash register and took out the money. While we were searching, a car drove up and we both went outside. I made believe that I was the gas station attendant and asked the man how much gas he wanted. He said he wanted $2.00 worth. I reached for the gas hose and I saw Taborsky, who was standing close to the driver, order this man at gun-point, to get into the station. In this car, with the man, was a little boy about three years old. I went to my car to warm it up. Taborsky came over to the car very shortly and he said, "Let's get going", and I drove off. While we were riding toward Hartford, Joe had the revolver on his lap. Joe told me that if anybody tries to stop us, 'I'm going to shoot the son-of-a-bitch.' I don't remember if it was before this job or after this job that Joe told me that we should kill the people we holdup so that they could not identify us.

"We drove to my home in Hartford, where we divided the money. The total amount was about $125.00. I got half of that for my share. Joe gave me the wallet from his man after he had emptied it and told me to get rid of it

with the wallet I took from the man I had robbed. I don't know whether I threw the wallets in the rubbish in my yard or in a brook accross the way on Flatbush Ave. I put the revolver which Joe used on this case, which was mine, and also the gun that I had used in my safe. The following day I threw them in the swamp at the corner of Newfield and Dexter Sts.

"On February 27, 1957 I showed the State Police where I threw these guns, and the next day they showed me a .32 revolver foreign make. This revolver had plastic handles and one was cracked and I identified that gun as the one I gave Joe Taborsky when we went to New Britain and held up the gas station. This is the gun Taborsky told me he used when he shot the man in the toilet in the gas station.

"The above statement has been read to me and it is true.

"Signed. Arthur Culombe

"Witnessed: Samuel Rome, John Fersch, Frederick P. Moran."

MR. LaBELLE: You may inquire.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. This had to be read to Culombe, didn't it, Lieutenant because Culombe cannot read, can he? A. So he told me, Mr. McDonough, yes, sir.

Q. And he cannot write, except his name? That was your understanding? A. That's what I understand, yes, sir.

Q. So far as you know, that's the truth? A. That's the truth.

Q. That he cannot read or write? A. As far as I understand.

MR. McDONOUGH: That's all.

THE COURT: Anything further with this witness?

MR. McDONOUGH: One more question, please.

Q. Well, Culombe was still cooperating with the State Police to solve this crime, wasn't he? A. Yes, sir.

MR. McDONOUGH: That's all.

THE COURT: Anything further, Mr. LaBelle?

MR. LaBELLE: Nothing further at this moment, Your Honor.

THE COURT: Step down, Lieutenant. Call your next witness.

MR. BILL: Captain Kelly.

JOSEPH B. KELLY, having been previously sworn was recalled by the State, and testified as follows:

THE COURT: Captain, you may sit right down. He has been sworn, too.

DIRECT EXAMINATION BY MR. BILL:

Q. You are of the New Britain Police Department? A. Yes, sir.

Q. And you testified here in the early days before the jury, did you not? A. Yes, sir.

Q. And I believe you testified that you were at this Kurp's gas station around about somewhere between six and six-thirty on December 15th, 1956? A. Yes, sir.

Q. Now, were you, sometime in March 1957, at the gas station while Joseph Taborsky was there? A. Yes, sir.

Q. Under what circumstances? A. I received a call that the state police would be there, Lieutenant Rome, with Taborsky, to reenact the crime that had been committed -

MR. BURKE: I object to this, Your Honor.

THE COURT: It may go out. The jury will disregard that testimony. Go ahead, Mr. Bill.

Q. What day was this that you were speaking of?
A. March 2nd.

Q. 1957. A. Yes, sir.

Q. And did you receive a call from somebody on the telephone? A. Police headquarters received the call, the sergeant at the desk.

Q. And as a result of that call where did you go?
A. I Went to Kurp's gas station, 1707 Stanley Street.

Q. And when you got there about what time was it?
A. About 1:35 p.m.

Q. Did you meet somebody there? A. Yes, sir.

Q. Whom did you meet? A. Lieutenant Rome, Detective O'Brien, Taborsky and several other state policemen.

Q. And did something take place there concerning Taborsky? A. Yes, sir.

Q. And what was it? Will you describe it?
A. Lieutenant Rome asked Taborsky a number of questions. Taborsky replied to all of his questions.

Q. Do you remember the questions? A. Yes, sir.

Q. And will you tell us? A. When I got there Lieutenant Rome was already questioning Taborsky. He asked Taborsky -

Q. Where were they? Inside or outside of the gas station? A. Inside the gas station.

Q. Where abouts in the gas station? A. The main portion, the office part of the gas station.

Q. You were there with them? A. Yes, sir.

Q. Will you continue with the conversation as you remember it? A. Lieutenant Rome was talking to Taborsky when I got there. He was asking about the man in the boiler room.

Q. Will you go on from there and say what you remember as you heard Lieutenant Rome talking and Taborsky talking, as best you can?

A. I heard Taborsky say that there were two shots. Lieutenant Rome then asked him if there was a car pulled into the yard. He stated yes. Lieutenant Rome asked him to point the location of the car that had pulled into the yard. He pointed to the south pump in the gas station yard. Lieutenant Rome asked him then what happened. He stated that he went out to the car and had the man come into the gas station. Lieutenant Rome asked him then what happened. He told him he took his wallet from him, took him into the men's room and shot him twice in the head. Lieutenant Rome asked him to indicate where he shot him, and he pointed to the left side of his head.

Q. What part of the head? A. Above the ear. The left side of the head. Lieutenant Rome asked him if there was anybody else in the car when he went out to it. He said there was a little child. He asked him was it a boy or a girl, He said it was a girl. Lieutenant Rome then asked him, he went into the men's room, when he came out he asked him if there was anything different about the gas station.

Q. What did he say to that? A. He said yes, that the desk that was now located near the men's room in the office had been in a different location, and he indicated that it had been toward the window, about midway in the office.

Q. Now, Captain, when you testified before I think that you testified that you were familiar with State's Exhibit I, and I show you that exhibit and ask you if you recognize that? A. I do.

Q. And when did you see it for the first time?
A. This photo, or -

Q. No, that situation as you see it in that photo.
A. At about 6:10 on December 15th, 1956.

Q. Now, what furniture are you speaking of now in your testimony that Taborsky was talking about?
A. I am speaking of the metal desk that is behind the row of tires on the west side of the office.

Q. What did you say the article of furniture was that you are speaking of? A. A metal desk.

Q. Will you show His Honor in that picture, the exhibit? And now will you go down in front of the jury and just go along and show them? (Witness shows exhibit to jury) And for the record that is the desk that appears in the righthand part of the picture, is that correct?
A. Yes, sir.

Q. Now, you were there, you say, when Taborsky was there on March 2nd, 1957? A. Yes, sir.

Q. And when you were there before where was that metal desk? A. The metal desk was along the candy machine, moved to the east side of the office.

Q. And you are now pointing to the east side? Will you show His Honor? By the candy machine? Now, will you show the jury?

(Witness shows exhibit to jury.)

Q. Now, was there anything else that was discussed? Any other article? A. Yes.

Q. What was it? A. There was a cash register on the metal desk, and he stated -

Q. Who did? A. Taborsky.

Q. Yes. A. Stated that that was in a different location on the night of December 15th.

Q. And when you were there on December 15th, where was the cash register? A. It was on a shelf on the east wall, about the center of the office.

Q. And when you were there and Taborsky was there on March 2nd, 1957, where was the cash register?
A. It was on the metal desk.

Q. In the position where you have just described the metal desk had been removed to? A. Yes, sir.

Q. Was anything else said at that time by Taborsky, or by others in his presence, that you remember?

THE COURT: About the New Britain incident?

Q. That's right. That's all I care about.
A. He mentioned the other fellow in answer to a question by Lieutenant Rome.

Q. Anything else? A. That's about all that I can recall.

MR. BILL: Your witness.

MR. McDONOUGH: No questions.

THE COURT: Mr. Burke.

CROSS EXAMINATION BY MR. BURKE:

Q. When Taborsky was answering these questions, Rome was asking them? A. Yes, sir.

Q. Rome was telling him, wasn't he, and getting a "yes" and "no" answer? A. No, sir.

Q. Well, how would he ask the questions, Captain?
A. He asked the direct question.

Q. Well, he didn't ask where was the cash register, did he? A. He asked a general question at the time when

he was near the conclusion of the questioning, as "Did he notice anything different about the station"? And in answer to that Taborsky gave those -

Q. Both instances? A. Yes, sir.

Q. That was in answer to that general question? A. Yes, sir.

Q. You were there and heard this? A. Sir?

Q. You were there? A. Yes, sir.

Q. You heard it? A. Yes, sir.

Q. Did you ever get an order from a court in New Britain?

MR. BILL: Objection.

THE COURT: I will sustain it.

MR. BURKE: That's all, Your Honor.

THE COURT: Is there anything further?

MR. BILL: That's all.

THE COURT: You may step down, Captain.

MR. BILL: Paul Dubrosky.

PAUL DUBROSKY, a witness called by the State, having been sworn by Mr. Coburn, testified as follows:

BY THE ASSISTANT CLERK:

Q. Your full name? A. Paul Casper Dubrosky.

Q. Your address? A. 30 New Britain Avenue, Unionville.

DIRECT EXAMINATION BY MR. BILL:

Q. You are employed by the Farmington Construction Company? A. Yes, sir.

THE COURT: Unless counsel have some objection I would like to tell the jury that their quarters are being dried. I have had an inspection made and the clothing is all right. We are cleaning up the floor. Go right ahead, Mr. Bill.

Q. You say that you are employed by the Farmington Construction Company? A. Yes, sir.

Q. And where is that located, the company?
A. New Britain Avenue, in Farmington.

Q. And on Thursday February 28th, were you employed by that company? A. Yes, sir.

Q. Speak up so that everybody can hear.
A. Yes, sir.

Q. It is a little hard to hear on account of the storm, but will you speak loudly so they can hear away back here to the last man in the jury box.

Q. Where were you employed by this company that day? A. Right here in Hartford at -

Q. The name of the streets, if you remember?
A. Deerfield and some other street.

MR. BILL: I will establish that later, Your Honor.

THE COURT: All right.

Q. What were you doing? A. We were out in the swamp, over in the marsh, with a potato hook.

Q. Did you have a potato hook? A. Yes, sir.

Q. And how many other men were working alongside of you? A. Eight or nine of us.

Q. And were you hunting for anything in particular?
A. Yes, sir.

Q. What? A. Two pistols.

Q. Two pistols? And during your work did you have any success? A. Yes, sir.

Q. You personally? A. Yes, sir.

Q. What happened? A. I hooked into a pistol.

Q. With your potato hook? A. That's right.

Q. And as you did that, what did you do, or did somebody else do? A. I handed it to the officer right next to me.

Q. Do you know the officer's name? A. No, sir.

Q. Have you learned it since? A. I'd know him if I see him.

Q. Is the officer here.

MR. LaBELLE: Officer Hickey.

Q. Officer Hickey, is that the man? A. Yes, sir.

THE COURT: For the record, what is his name?

MR. BILL: Officer William Hickey.

Q. Do I understand that he was right there when you hooked this pistol? A. That's right.

Q. And he took it from you, is that it? A. Yes, sir.

MR. BILL: Captain Chameroy, this isn't loaded, Captain?

THE COURT: That may be humorous, but has it been -

MR. BILL: No, I mean that, Your Honor.

THE COURT: I do, too.

MR. BILL: I do it in every case.

THE COURT: I concur.

MR. BILL: All clean?

CAPTAIN CHAMEROY: Yes, sir

Q. Now, Mr. Dubrosky, I show you this pistol and I don't ask you if that is the one, but does it look like it? A. Yes, sir.

Q. It does? As the one that you fished up with the potato hook and turned it over to Officer Hickey, is that correct? A. That is right.

MR. BILL: May I have that marked for identification, Your Honor?

THE COURT: In which case?

MR. BILL: Culombe, for now.

THE COURT: All right, may be marked MM in case No. 21666 for identification.

(Pistol marked "State's Exhibit MM for Identification, case No. 21666.")

MR. BILL: Your witness.

MR. McDONOUGH: No questions.

THE COURT: Call your next witness.

WILLIAM HICKEY, a witness on behalf of the State, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. William Hickey.

Q. Your address? A. 109 West Euclid Street, Hartford.

DIRECT EXAMINATION BY MR. BILL:

Q. You are employed on the State Police Force? A. That's right, sir.

Q. For how long? A. Ten years.

Q. Whether or not on February 28, 1957 you were on duty at some place? A. Yes.

Q. Where were you? A. At the intersection of Newfjeld and Dexter Streets in Hartford.

Q. And while you were there did something happen that came to your attention? A. Yes, sir, a group of men from the Farmington Construction Company were searching a swampy area, and one of them uncovered a gun which I took from him.

Q. Can you name the man in this matter you took the gun from? A. Paul Dubrosky.

Q. He just preceded you on the witness stand?
A. That's right, sir.

Q. What did you do when you had taken the gun from him? A. I took the gun and went across the street to a large building and washed the mud off and I took it to the police station where Officer John Fersch was and he produced a rag and wiped the gun clean and kept possession of it.

Q. I show you State's Exhibit MM in the Culombe case - for identification - and ask you if you recognize that pistol - I don't mean as the pistol itself - but do you recognize it? A. Yes, sir, I do.

Q. And you identify it as a pistol of that type and nature? A. I do.

MR. BILL: Your witness.

THE COURT: Mr. McDonough?

MR. McDONOUGH: No questions.

(witness excused)

THE COURT: Call your next witness.

OFFICER JOHN FERSCH, previously sworn, recalled by the State.

DIRECT EXAMINATION BY MR. BILL:

Q. Were you on duty as a State Policeman on February 28, 1957? A. I was.

Q. Whereabouts? A. I was at the intersection of Newfield and Dexter Streets in Hartford.

Q. Did something happen there while you were there? A. Yes, it did.

Q. What was it? A. At 1:35 P.M. Mr. Paul Dubrosky, who was using a sort of grappling or clam hook in the vicinity of that intersection found a gun in the swamp.

Q. Did you see him find the gun? A. Yes, sir.

Q. What happened to the gun as far as you were concerned? A. Officer Hickey took the gun off the rack and cleaned the mud off it and turned it over to me, and I kept it in my possession until Lieutenant Rome arrived at the scene.

Q. You stayed on the premises, did you? A. Yes, sir, I did.

Q. Showing you State's Exhibit MM for identification, can you identify that gun? A. Yes, I can.

Q. As what? A. This is the gun found by Paul Dubrosky on February 28 at 1:35 P.M.

Q. And you took possession of it? A. Yes.

Q. From Officer Hickey? A. Yes, sir.

Q. And you kept it for a time and then what did you do with it? A. Gave it to Lieutenant Rome.

MR. BILL: Your witness.

MR. McDONOUGH: No questions.

(witness excused)

RICHARD BALAZY, a witness on behalf of the State, being first duly sworn by Mr. Coburn testified as follows:

BY MR. COBURN:

Q. Your full name? A. Richard Balazy.

Q. Your address? A. 25 Main Street, Farmington.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. What is your occupation, Mr. Balazy?
A. I am a contractor, sir. .

Q. Are you employed by someone? A. No, I am a partner in the Farmington Construction Company.

Q. You are a partner? A. Yes, sir.

Q. Was your company employed by the State Police Department to do a certain job on or about March 2?
A. Yes, sir.

Q. Were they also employed on February 28?
A. Yes, sir.

Q. And what was the job you were employed to do?
A. We were employed to search for weapons and wallets in the vicinity of Dexter and Newfield Streets in the City of Hartford and also at Coleman Drive.

Q. With reference to Newfield and Dexter Streets in Hartford, were you present on February 28 when some of this work was commenced? A. Yes, sir.

Q. Were you present when Paul Dubrosky was working there? A. Yes, sir.

Q. Were you present when something was found by Mr. Dubrosky? A. Yes, sir.

Q. And what was found by him? A. A revolver was found by Mr. Dubrosky.

Q. How did he find it? A. He found it with a potato hook.

Q. Were you present when it was found with the hook? A. Yes.

Q. I show you State's Exhibit MM for identification and ask you if you can identify or recognize that exhibit? A. Very definitely.

Q. What is that? A. That is the gun Paul fished out of the swamp at the corner of Dexter and Newfield Streets.

Q. Now, on March 4 was your company still employed at that location? A. Yes, sir.

Q. And on March 4 what was the operation your company was performing? A. We were still in the search for another weapon. We were told there were two weapons. We found one and we were searching for another one.

Q. On March 4 what kind of equipment was being employed? A. An electromagnet was being employed on the end of a crane boom.

Q. And what is an electromagnet? A. It is a heavy piece of steel that is electrified by a generator which consists of magnetic action which picks up metals that are attracted by magnetism primarily used by people in the junk business to pick up metal material that is attracted by magnetism and is dumped into trucks or railroad cars or what have you.

Q. On March 4 did something happen in this operation? A. Yes, sir.

Q. What happened? A. We found a nickel revolver.

Q. Tell the Court and jury how it was found.

A. The second revolver was found by using this electromagnet at the end of a crane boom sweeping across the swamp area from one side to the other, and when the

magnet was at one extreme or the other of the swamp, it would be raised and inspected manually to see if there was anything on the bottom of the magnet.

Q. Did you find something on this magnet that pertained to your job there? A. Yes, we found the revolver.

MR. LaBELLE: Captain Chameroy?

Q. This one we don't have to worry about. I show you this article in front of you, and ask you if you can identify that? A. Yes, sir, that is the revolver that was taken off the magnet at the corner of Dexter and Newfield Street.

Q. Were you present when that revolver was picked up by the magnet? A. Yes, sir.

Q. Did you have something to do with the magnet at the time? A. Nothing to do with the magnet.

Q. Did you have anything to do with this after? A. Yes, sir, I took it off the magnet.

Q. And after you took it off the magnet what did you do with that exhibit? A. I handed it to a police officer. I am trying to think of his name, and I think his name was Officer French.

MR. LaBELLE: Will you stand up, Officer French?

Q. Is that the officer you gave it to? A. I think so, yes, sir.

MR. LaBELLE: May I have this marked for identification?

THE COURT: Yes, in the Culombe case - NN for identification - Case No. 21666.

(Part of revolver marked State's Exhibit NN for identification)

Q. Showing you State's Exhibit N for identification,

Mr. Balazy, was that gun approzimately in the same condition when you found it as it is now? A. It is in exactly the same condition.

MR. LaBELLE: You may inquire.

MR. McDONOUGH: No questions.

(witness excused.)

WARREN A. FRENCH, a witness on behalf of the State, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Warren A. French.

Q. Your address? A. 293 Alden Street, A - Fairfield.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. You are a State Police officer? A. I am attached to the Special Services Division.

Q. How long have you been connected with the State Police Department? A. As a policeman over 17 years, and detective about three years.

Q. From March 4 - or on March 4 were you on duty in Hartford? A. I was.

Q. Where was that duty being performed?

A. At the intersection of Dexter and Newfield Streets in Hartford.

Q. What was the duty you were assigned to at that location at that time? A. I was supervising a search by an electromagnetic crane for the second weapon in a swamp at that location.

Q. Was that weapon found? A. It was.

Q. Were you present when it was found? A. I was.

Q. How was it found? A. It was swept up by this magnetic crane.

Q. Were you present when the magnetic crane picked up the weapon? A. I was.

Q. What happened to it when the magnetic crane picked up the weapon? A. The former witness took it from the crane, washed it off and handed it to me.

Q. I show you State's Exhibit NN for identification which is in front of you and ask you if you can identify that? A. This looks like the same gun that was handed to me.

Q. That looks like the same gun that was on the magnetic crane? A. Yes, sir.

Q. And that Mr. Balazy handed to you? A. That's right.

Q. What did you do with that gun? A. I kept it in my possession and notified headquarters by radio we had recovered it and turned it over to Lieutenant Rome about twenty minutes later.

MR. LaBELLE: No questions, Mr. McDonough?

MR. McDONOUGH: No questions.

THE COURT: Call your next witness.

(witness excused)

LIEUTENANT SAMUEL ROME, previously sworn, recalled as a State's witness.

DIRECT EXAMINATION BY MR. LABELLE:

Q. Showing you State's Exhibit MM for identification, Lieutenant, I ask you if you recognize that? A. I recognize the gun I am looking at, but I am looking for a mark I put on it. Oh, yes, yes, I do.

Q. What is it? A. This is a gun that was recovered from the swamp at the corner of Newfield and Dexter Street on February 28 and turned over to me by Officer Fersch, and at that same time identified by Arthur Culombe as the gun that he loaned to Joseph Taborsky.

MR. BURKE: I object to this, Your Honor.

THE COURT: You mean insofar as the Taborsky case is concerned?

MR. BURKE: Yes.

THE COURT: I will sustain the objection and the jury is instructed to disregard anything said by Culombe in reference to whatever it is testified he said, and you will disregard it entirely as to the Taborsky case, and it is admissible in the case of State versus, Culombe.

MR. LABELLE: May I withdraw the question at this point?

Q. When the gun was turned over to you by Officer Fersch, what did you do with it? A. Took it in my possession and the same day turned it over to Captain Chameroy after putting my initials on it.

Q. Are your initials on that gun now? A. Yes, sir, they are.

Q. Did you at sometime show this gun to Culombe? A. Yes, sir. Immediately after it was turned over to me I showed it to Culombe.

Q. I show you State's Exhibit NN for identification, and ask you if you can identify that? A. Yes, sir, this is part of a gun that was turned over to me by Detective Fersch on March 4 at the scene where it was located, and the one that I turned over to Captain Chameroy the same day.

MR. LABELLE: You may inquire.

THE COURT: Mr. McDonough?

MR. McDONOUGH: No questions.

THE COURT: You may step down. Call you next witness.

FRANK V. CHAMEROY, a witness on behalf of the State, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Frank V. Chameroy.

Q. Address? A. Wethersfield, Connecticut.

DIRECT EXAMINATION BY MR. BILL:

Q. You are a member of the State Police Department? A. Yes, sir, I am.

Q. What is the nature of your work with the State Police Department? First off, what is your title? A. Captain.

Q. What are your duties? A. I am in charge of the State Bureau of Identification and Laboratory.

Q. How long have you been in charge of that bureau and laboratory? A. Twenty two years.

Q. And that has to do with ballistics, firearms and identification, such as finger prints, and so forth? A. Yes, sir.

Q. Is that what you specialize in? A. Yes, sir.

Q. And you have over the years? A. Yes, sir.

Q. And you have testified, have you not, Captain, in many many cases in the Superior Courts around the state here? A. Yes, sir, I have.

Q. I sho[illegible] you the three articles Lieutenant Rome found at Culo[illegible]e's house, marked State's Exhibit GG for identification - contained in that envelope, and ask you if you recognize those? A. Yes, sir, I do.

Q. And there are three articles. Do they have something to do with firearms? A. They are parts of a revolver.

Q. Can you designate the names of those three articles? A. Yes, I can.

Q. And what are they? A. One of the items is a main spring for a revolver. Another of the items is the cylinder retaining rod for a revolver, and there is a pair of revolver grips with the grip screw.

Q. Where did you get these from? A. They were given to me by Lieutenant Rome.

Q. Do you know when? A. On March 4, 1957.

Q. And when you received them from Lieutenant Rome, what did you do with them? A. I kept them in my possession.

Q. Have you had them in your possession since then? A. With the exception of one day.

Q. What day was that? A. That was on March 11.

Q. What happened then? A. I sent them to Worcester, Massachusetts in the custody of Sergeant Walter Perkins of the Laboratory staff.

Q. Were they returned to you by him? A. Yes, sir.

Q. Can you identify those as the articles you took from Lieutenant Rome that day? A. Yes, sir, I can.

MR. BILL: I offer them in evidence.

THE COURT: Any objection?

MR. McDONOUGH: No objection.

THE COURT: Mr. Burke?

MR. BILL: This is on the Culombe case.

THE COURT: Then you don't need to answer. It may be marked a full exhibit - State's Exhibit GG.

(Envelope containing gun parts marked State's Exhibit GG).

THE COURT: We will stop here, Mr. Bill.

The accused may be escorted from the courtroom.

Sheriff, may I have a report on the jury condition? Are they comfortable?

SHERIFF JULIANO: Yes, they are, Your Honor.

THE COURT: If you find they are not, let me know. The jury may return to their room and the alternates to their room.

Short recess, Sheriff.

(Recess at 3:30 P.M.)

JUNE 19th, 1957. 3:50 P.M.

THE COURT: Will you bring up the accused, Sheriff?

(Accused present)

THE COURT: May I have the alternates and the jury?

(Jury and alternates present)

THE COURT: You may proceed when you are ready, Mr. Bill.

FRANK V. CHAMEROY, on the witness stand.

DIRECT EXAMINATION BY MR. BILL: (Resumed)

Q. Captain, showing you State's Exhibit NN, in case No. 21,666, for identification, can you identify that?

A. Yes, sir, I can.

Q. As what? A. As a .32 calibre Harrington-Richardson, Young American revolver.

Q. Is it complete? A. It is not.

Q. What is missing to make it a complete revolver?

A. The hammer screw is missing, the cylinder is missing, the cylinder rod - that's the bearing rod that the cylinder revolves on - is missing, the main spring is missing, and the grips are missing.

Q. When you say "grips" what do you mean?

A. They are the - if you want to call them handles, for another word, the handles or grips.

Q. The grips on the handles? A. Yes, sir.

Q. To a layman it might mean the grips on the handles? A. Yes.

Q. Have you had that pistol in your possession for some time? A. I have, yes, sir.

Q. And where did you get it from? A. I received it from Lieutenant Samuel Rome.

Q. When? A. On March 4th.

Q. And have you had that in your possession since that time? A. I have, with the exception of that one day.

Q. What about that one day? A. That one day it was taken to the Harrington-Richardson Arms Factory in Worcester, Massachusetts by Detective Sergeant Walter Perkins, who is connected with the laboratory staff at State Police Headquarters.

Q. Have you your own markings on there for identification so that you can identify that as the pistol that was

turned over by Lieutenant Rome to you? A. Yes, sir, I have.

Q. And will you refer to those markings? A. "F.C."

Q. Do you find it there? A. Yes, sir, I do.

Q. And what does that stand for? A. My initials.

Q. Did you put them in there when you received it? A. When I received it, yes, sir.

Q. And what does that indicate to you? A. It indicates that it was the same revolver that was turned over to me by Samuel Rome, Lieutenant Rome.

MR. BILL: I offer that as a full exhibit.

MR. McDONOUGH: Just a moment. No objection.

THE COURT: May be marked a full exhibit NN in case No. 21,666.

(Harrington-Richardson revolver received in evidence and marked "State's Exhibit NN" in Case No. 21,666.)

Q. Now, showing you State's Exhibit MM in case No. 21,666, Culombe, for identification, do you recognize that pistol, Captain? A. Yes, sir, I do.

Q. As what? A. It is a .32 calibre Russian Nagant revolver used by the Russian military as a side arm.

Q. Have you had this in your possession? A. I have.

Q. And where did you receive it and from whom? A. I received it at State Police Headquarters from Lieutenant Samuel Rome, on February 28th.

Q. Have you kept it in your possession ever since? A. Yes, sir, I have.

MR. BILL: I offer that.

MR. McDONOUGH: You claim that it belongs to a mad Russian?

MR. BILL: That will come out later.

MR. McDONOUGH: Culombe? No objection.

THE COURT: May be marked full exhibit MM in No. 21,666.

(Russian Nagant revolver received in evidence and marked "State's Exhibit MM, Case No. 21,666").

Q. Now, referring to State's Exhibit NN which is the smaller revolver that you have identified, and State's GG, which are these three articles from a revolver that you described, in your examination of these two exhibits do you find any relation or connection between them? A. Yes, sir, I did.

Q. And what is it? First off, did you determine your opinion the make of this revolver? A. Yes, sir, I did.

Q. And what was it? A. It is a Harrington and Richardson .32 calibre revolver, Young American model.

Q. Where is that made and has been for some time? A. Worcester, Massachusetts.

Q. And is that factory still running? Are they still manufacturing? A. Yes, sir, it is still in existence.

Q. You said that you found some relation or connection between these three objects in State's Exhibit GG and this revolver, State's Exhibit NN. Will you explain what it was? A. I found that the parts in State's Exhibit GG, namely the revolver grips, the cylinder rod and the main spring, all fit this revolver.

Q. Is that unusual? A. Well, they were made to fit that particular model.

Q. You determined that? A. Yes, sir.

Q. And did you, yourself, in an experiment, fit those parts to this revolver? A. I did.

Q. And how did they fit? A. They fit very well.

Q. Now, do you find something else that showed a connection between the revolver and some of the parts here? A. I did.

Q. And you are now looking at what? A. I am looking at the pair of revolver grips in State's Exhibit GG.

Q. And are you about to point out something that you discovered in those grips, or one of them? A. Yes, sir I am.

Q. And what is it? A. On the inside of both of the grips I find a four digit number, and it is 5755.

Q. And in what manner do you find it on there?
A. A scratch mark on there.

Q. Now, referring to the pistol itself, Exhibit NN, do you find anything there? A. Yes, sir, I do.

Q. What? A. On State's Exhibit NN, the .32 calibre Harrington Richardson, Young American revolver, I find a four digit number stamp on the frame, and that is 5755.

Q. That is the same number that you read from the scratch numbers of the grips, is that correct? A. Yes, sir, it is.

Q. And as a result of your findings what did you do in relation to the grips and the pistol? A. That is when I had the grips and the revolver taken to the Harrington-Richardson factory in Worcester, Massachusetts, on March 11th, by Detective Sergeant Walter Perkins.

Q. And as a result of that we have a witness, Mr. Stanhope, here from that factory, is that correct?

A. Yes, sir, we have.

MR. BILL: Your witness. Your Honor, I was wondering, perhaps if Mr. McDonough knew our situation, we have a man here from Worcester, who has been ill with a heart condition, and he hasn't been away from home for many, many years, and he did consent to come down here and he is here now, and I had hope we could finish with him by putting him on and perhaps delay the cross-examination of Mr.McDonough.

MR. McDONOUGH: Yes, I will be glad to.

MR. BILL: Until after he testifies.

MR. McDONOUGH: I will be glad to.

MR. BILL: I would be very thankful to you if you would.

MR. McDONOUGH: Yes, sir.

MR. BILL: I appreciate it.

THE COURT: You may withdraw for the moment, Captain.

MR. LaBELLE: Mr. Stanhope.

GEORGE STANHOPE, a witness called by the State, having been sworn by Mr. Coburn, testified as follows:

BY ASSISTANT CLERK:

Q. Your full name? A. George Stanhope.

Q. Address? A. Beverly Hill Drive, Shrewsbury, Massachusetts.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. Mr. Stanhope, by whom are you employed?

A. Harrington & Richardson, Incorporated, Worcester, Massachusetts.

Q. And what kind of a company is that?
A. Firearms exclusively until two years ago.

Q. And how long has that company been making firearms? A. I believe about 1876, 1877.

Q. And has your family been connected with that company? A. What's that?

Q. Has your family been connected with that company in any way? A. Three brothers and my father.

Q. How long have you worked for this company?
A. For about forty and a half years.

Q. And in your capacity what were you doing for the company when you were employed by them? A. I have been in most of the positions, started in as assembler on revolvers.

Q. Did you work up all through the factory process?
A. Through tool making to superintendent, now a process engineer.

Q. You are now a process engineer with this company? A. That's right.

Q. In your forty-one years with the company have you been working with revolvers? A. Not for the last five years, but up until that time, yes.

Q. And tell the Court and jury your experience in the company with reference to the manufacture of revolvers? A. In what respect, please?

Q. In your employment with this company, what was your experience in manufacture and assembling of revolvers? A. I was on the final assembly. We had two assemblies, a rough assembly and a final assembly. Not inter-

changeable guns. Each gun had to be fitted and I was on the final assembly.

Q. And you were connected with the final assembly of these guns over thirty-five years? A. No, not the whole thirty-five. I started with the assembly.

Q. How long did you work with the assembly?
A. About eight or nine months in assembly.

Q. Then what did you do? A. Then went right into the tool room, tool making, making the tools that make the guns.

Q. How long did you stay in that department?
A. Nineteen seventeen to nineteen thirty-nine, twenty-one years.

Q. And since 1939 what have you been doing with this company? A. Superintendent, processing engineer, production manager, pretty near a sweeper sometimes.

Q. You know all about the process of manufacturing revolvers of this company, do you? A. That's right.

Q. Now, I show you State's Exhibit NN and ask you what that is? A. I believe it to be our Young American Model which we made up until 1935, practically the same design in all ways.

Q. In the Harrington-Richardson Arms Company, is the manufacturing process a process where the parts are interchangeable in that company? A. No. They are on a few. In the last few years some of them are.

Q. Up to 1935 when you were making this Young American model were the parts supposed to be interchangeable? A. No.

Q. What kind of a manufacturing process is involved in making this type of pistol? A. Double assembly. Rough assembly. Finish assembly.

Q. Is it a machine process, or hand process?

A. They are all machined the same. Then the hand work makes the - they are not interchangeable. They are all hand fitted.

Q. I show you State's Exhibit GG and ask you if you can identify those items? A. Left and right pistol grip with the retaining screw, center pin or cylinder pin, main spring.

Q. Now, I ask you, Mr. Stanhope, if you will take those parts and see if these fit State's Exhibit NN. Put it together. A. The center pin, cylinder pin, fits. The hammer screw is missing.

Q. Can you put it together by using something besides the hammer screw? A. I can use this center spring to hold the hammer so it won't fly out and I think that I can assemble this main spring if my fingers don't let go first.

Q. Does it work? A. It is working.

Q. What are you working now? What is that operation that you are performing? A. To make the spring work I pull the hammer back and pull the trigger to let it release. So now it is a firing arm.

Q. What is that that you put into the frame of that gun just now? A. The main spring.

Q. Is that part of that Exhibit, State's Exhibit GG?

A. GG.

Q. That is one of the parts that came out of GG?

A. That's right.

Q. And the pin that you were also using is a part of State's Exhibit GG, is that so? A. That is right.

Q. Now, will you see if you can assemble the rest of

those parts? A. I would like to take this main spring out first. I don't want it to fly out. If I may.

Q. What do you find when you make the next assembly? A. That the two pistol grips and the screw fit the frame assembly, which it is called. The frame assembly.

Q. And what kind of a fit is it? A. Well, it is as close a fit as Harrington-Richardson has ever done on any firearm.

Q. Do you have an opinion as to whether or not those grips belong to that frame? A. I don't see but what it would have to.

Q. It would have to? A. It would have to.

Q. Is it your opinion that these are the grips that belong to that frame? A. Yes, sir.

Q. Now, will you also examine those pistol grips again, particularly with reference to design? A. Yes, sir.

Q. Do you identify the design on those pistol grips? A. Yes, it is one of the designs that we use.

Q. It is one of the designs that your company uses? A. That's right. We do many. This is one of them.

Q. I call your attention to the inside of the pistol grip, both pistol grips. A. I see some scratches. I can't read them.

Q. Do you want to come under the light by the reporter? A. "5755" on both of them.

Q. 5755. Now, that is a number that you just read from both of the grips? A. Right.

Q. And both of those grips are part of State's Exhibit GG? A. GG.

Q. Now, do you have any knowledge of what those numbers are? A. The rough assembly, when they are

fitted to the frame - whether they were fitted to this, I haven't looked at the number yet. But those are the rough assembly.

Q. Do you have a custom in the manufacture of your guns pertaining to the inside of pistol grips? A. Yes, that is the way that we mark them. That's the way you have to match them together.

Q. What is the custom to mark inside the pistol grips?

A. In the rough assembly a man fits the grips, files the edges, buffs them until they are smooth, then takes them apart, and with a sharpened wire like a needle he scratches the number, whatever is on the frame, on the grips.

Q. So that the number scratched on the inside of the grip should be the same number that is on the frame?

A. That is right.

Q. Now, I ask you to look at State's Exhibit NN.

A. 5755.

Q. Is that the number that is on State's Exhibit NN?

A. That's right.

Q. How does that compare, then, with the number on the inside of the pistol grips? A. The same number.

Q. Do you have an opinion now as to whether or not those grips belong to that gun frame? A. No, I think they are the ones that go on there. They are numbered the same, and fit.

Q. Is it your opinion that they are the grips that belong to that frame? A. Yes.

Q. And is that the custom in the manufacture in your company of marking the inside of pistol grips?

A. That's right.

Q. I will ask you one more question. Where on the inside of the pistol grips is that number marked? A. On a

place that will not be filed off. On the top. It is almost in a recess where it is shiny, and in a recess, so that in rubbing in the trays the number will never be rubbed off.

Q. I ask you again to look at the inside of the grips, which are part of Exhibit GG, and I ask you where those scratch marks are, if that is the place that the manufacturing process calls for the customary marking of pistol grips? A. That's right, it does.

Q. Is that the location? A. That is the location.

Q. Is this with your own Company records that are kept in the usual course of business with reference to pistol numbers? A. Manufacturing numbers, yes, sir.

Q. Do you have a record? A. Yes, sir.

Q. You have a record that would refer to guns manufactured by your Company? A. Yes, sir.

Q. And you have a record that refers to a gun number 5755? A. In a group of fifty, yes.

Q. When you say in a group of fifty, will you tell the Court and jury what you mean by that? A. Our procedure in shipping the guns from the inspection department to the shipping room - they are in trays of fifty, and they listed in this book that way unless it is different. If there is a difference it will tell us on the book.

Q. Do you have with you Company' records that were made in the course of business - usual business - which record the gun numbers that are shipped from the assembly room to the shipping room? A. That is right.

Q. Do you have that book with you or do you have a record of gun number 5755 in your records? A. No, not as a number.

Q. Do you have a record of a gun in a series of fifty which would include the number 5755? A. I do.

Q. And from those records can you tell us the year of the manufacture of that gun that would cover number 5755?

A. Yes, sir.

Q. What is the year of manufacture of that gun?

A. 1902.

Q. Now, those records you are referring to, are they the records of your Company kept in the usual course of business? A. They are, for answering such cases as we have right now.

MR. LaBELLE: You may inquire.

MR. McDONOUGH: No questions.

THE COURT: Step down, Mr. Stanhope.
Do you wish to call back Captain Chameroy?

MR. McDONOUGH: I have no questions of Captain Chameroy.

THE COURT: Then you needn't come back, Captain Chameroy. There are no questions. Call your next witness.

JAMES N. KINGSTON, a witness on behalf of the State, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. James N. Kingston.

Q. And your address? A. 165 Platt Street, Ansonia, Connecticut.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. You are a member of the State Police Department, Officer? A. Yes, sir, I am.

Q. How long have you been a State Police Officer?
A. Since March 1, 1949.

Q. On March 1, 1957 were you assigned a duty as a State Police Officer to take some property to the State Laboratory? A. Yes, sir, I was.

Q. And what was that duty you had to perform?

A. I was assigned by Lieutenant Rome on Friday, March 1, 1957 to take a green olive-drab rubberized canvas raincoat to the State Laboratory at 1179 Main Street, Hartford Connecticut.

Q. Did you finish? A. I was going to describe the coat.

Q. I will ask you first, from whom did you receive this coat? A. From Lieutenant Rome.

Q. I show you State's Exhibit FF for identification, and ask you if you can identify that? A. Yes, sir, I can.

Q. What is it? A. This is the same raincoat that was given to me by Lieutenant Rome on Friday, March 1, 1957 at ten o'clock in the morning to bring to the State Laboratory.

Q. What did you do with it? A. I turned this coat over to Miss Dorothy Carlson at two-fifteen on the same date.

MR. LaBELLE: That is all.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. That isn't the dirty old coat that Culombe wore in court, is it? A. I don't know, sir.

Q. It certainly is a dirty old coat, isn't it? A. It does seem to be a little soiled.

MR. McDONOUGH: That is all.

THE COURT: Step down.

(Witness excused.)

DOROTHY E. CARLSON, a witness on behalf of the State, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Dorothy E. Carlson.

Q. Your address? A. 89 East Street, Windsor.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. Where are you employed, Miss Carlson? A. At the Toxicology Laboratories, State Health Department.

Q. In the usual course of your duties as an employee of the Toxicology Laboratory, did you receive on March 1, 1957 a particular article from Officer Kingston? A. I did.

Q. What did you receive from Officer Kingston?
A. I received an olive-drab, Army type raincoat.

Q. I show you State's Exhibit FF for identification and ask you if you can identify that article? A. I do.

Q. What is it? A. This is the raincoat that was turned over to me by Detective Kingston.

Q. What time did you receive it? A. Two-fifteen P.M.

Q. What date? A. March 1, 1957.

Q. What did you do with it? A. I assigned a laboratory number to the raincoat and turned it over to Doctor Stolman.

Q. Does the laboratory number appear on this coat?
A. It does on the identification tag.

Q. What is that number? A. 524-B.

Q. Does that correspond with your receipt?
A. It does.

Q. And that is the number marked in red pencil on the identification tag - 57 - 524-B? A. Yes.

Q. What does the 57 refer to? A. The year 1957.

Q. And that is the laboratory number you assigned to this article? A. That is right.

Q. And you turned this article over to Doctor Stolman? A. Yes.

MR. LaBELLE: That is all.

MR. McDONOUGH: No questions.

(Witness excused.)

ABRAHAM STOLMAN, a witness on behalf of the State, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Abraham Stolman.

Q. Your address? A. Wethersfield, Connecticut.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. What is your profession, Doctor? A. I am Chief Toxicologist for the State of Connecticut.

Q. How long have you been Chief Toxicologist for the State? A. Seven years.

Q. Where did you attend undergraduate school?
A. Rutgers University.

Q. After graduation from Rutgers, what did you do next?

MR. McDONOUGH: I will admit the doctor's qualifications to save time.

THE COURT: Are you satisfied?

MR. LaBELLE: The jury might like to hear them.

MR. BURKE: Do I understand we are still working on the Culombe case?

THE COURT: Is that correct?

MR. LaBELLE: At this time the exhibit hasn't been admitted.

THE COURT: Will the offer be in the Culombe case only?

MR. LaBELLE: It may very well at some time offered in both cases. I will offer it now in the Culombe case.

MR. BURKE: It seems to me if they are going to do that, I should have been warned long ago. I haven't examined these witnesses on the basis that I have assumed this has been on the Culombe matter.

THE COURT: Proceed, Mr. LaBelle.

THE WITNESS: I was with the Rockefeller Institute of Medical Research for a year and a half; then I went on to Columbia University Medical School, associated there for nine years; from there I went to New York University and was associated there for a year and a half; and from there I went with the United States Army Medical Department for four years; and from there I went on to the University of Edinborough Medical School for two years. I have been with the New York Medical Examiner's office for a year and a half, and then with the Ulster County, New York State for six months. Then I came here.

Q. Did you receive any further degrees after you graduated from Rutgers? A. Yes, sir, Doctor of Philosophy in Toxicology.

Q. And where did you receive that degree?

A. The University of Edinborough.

Q. In what year? A. In 1948.

Q. Has your entire experience since graduation from Rutgers been in connection with toxicology work?

A. No, since 1939 - in the scientific field since 1932.

Q. Since 1939 you have been particularly specializing in toxicology? A. Yes.

Q. In the course of your duties have you been called upon in your employment with the State of Connecticut to testify in the courts of the state? A. Yes, I have.

Q. In what capacity? A. As a witness for the examination of certain types of materials - blood stains, poisons; isolation and detection of poisons in the human body and various other phases of police work which require chemical examination.

Q. Showing you State's Exhibit FF for identification, which is in front of you, I ask you if you can identify that garment? A. Yes, I brought it into the courtroom yesterday.

Q. What is it? A. A rain coat.

Q. And from whom did you receive it? A. From my secretary, Miss Carlson.

Q. On what date? A. On March 8 - an hour after 4:15 that day.

Q. With reference to State's Exhibit FF, did you make an analysis of certain spots on that coat? A. Yes, I examined the coat and found the spots on here.

Q. With particular reference to the sleeves, did you make an examination of some of the spots on one of the sleeves? A. Yes, on the right sleeve, the lower portion of the right sleeve, which I cut out and put my initials on it.

Q. Will you show that to the Court and the jury - show it to the Court first and then to the jury.

MR. McDONOUGH: Has that been marked an exhibit?

THE COURT: No.

MR. McDONOUGH: It shouldn't be exhibited to the jury if it is not an exhibit.

THE COURT: No, and I will sustain the objection.

MR. LaBELLE: I am sorry. I will offer it now.

THE COURT: Objection, Mr. McDonough?

MR. McDONOUGH: No objection.

THE COURT: I will mark it a full exhibit in No. 21,666, the Culombe case.

(States Exhibit FF for identification marked as a full exhibit.)

Q. Now, will you show the area you refer to on the right sleeve to the Court first? A. It is the sleeve here right above this flap. That is the area I cut out.

THE COURT: Where are the initials?

THE WITNESS: The initials are right here. I did that on March 26, 1957.

MR. LaBELLE: The witness is showing to the Court and will you also show it to the jury, State's Exhibit FF - showing the right sleeve of that exhibit. Will you take it to the jury and show them what you did, Doctor? A. I cut out this portion of the right sleeve which I circled with a pencil and put my initials on it.

THE COURT: All right, proceed.

Q. That portion you cut out of the right sleeve - did you make a chemical analysis of that material?

A. Yes, I did.

Q. Will you tell the Court and jury what your analysis showed? A. I found blood to be present in that area which I cut out, and the blood was of human origin.

Q. Are there any other parts of State's Exhibit FF where there are similar spots? A. Yes, on the left lapel there are also blood stains.

Q. Will you show that to the Court and jury?

THE COURT: Show it to me.

A. There are blood stains right along in here.

THE COURT: Now show it to the jury.

MR. LaBELLE: The witness is indicating -

A. From the left - along the left lapel - right in this area. (indicating to the jury)

MR. LaBELLE: The witness is indicating the left lapel on State's Exhibit FF for identification.

Your witness.

MR. McDONOUGH: No questions.

THE COURT: Step down, Doctor.

(witness excused)

MR. BILL: Captain Chameroy.

THE COURT: Sit right down, Captain.

FRANK V. CHAMEROY, having been previously sworn, was recalled by the State and testified as follows:

DIRECT EXAMINATION BY MR. BILL:

Q. Captain, have you with you State's Exhibit Q for identification, and R-1 and R-2 for identification? They are three jars. A. Yes, I have.

Q. Will you produce them, please? And then have you got State's Exhibit X and Y for identification, two boxes of bullets? A. Yes, sir, I have.

Q. Now, take State's Exhibit Q for identification. Do you find it there? A. Yes, sir.

Q. And do you recognize that? A. Yes, sir; I do.

Q. And when did that come into your possession?
A. It came into my possession on December 17, 1956.

Q. Under what circumstances? A. It was delivered to me by Detective Gutowsky of the New Britain Police Department.

Q. Is that jar in any different shape now than when it was delivered to you? The condition of it, the top of it, or anything else? A. This one is all right.

Q. Have you kept that within your possession except when it has been handled here in the Courtroom?
A. Yes, sir.

MR. BILL: I offer that.

THE COURT: Any objection.

MR. McDONOUGH: I object. There is no connection with the defendant, Culombe.

MR. BURKE: May I ask the Court which case it is being offered in?

THE COURT: I'll see that you get the information, but let Mr. McDonough finish.

MR. McDONOUGH: Are you offering it against Culombe, Mr. Bill?

MR. BILL: Yes, Your Honor. This is the jar that we traced from the brain of the body of Edward Kurpiewski.

THE COURT: Then I take it that's the case you are offering it in?

MR. BILL: And we traced it all along the line, and we are now producing it as being the bullets that were removed.

THE COURT: That obviously is in the Culombe case.

MR. BILL: Yes, Your Honor.

MR. McDONOUGH: That's Exhibit Q for identification?

MR. BILL: That's right.

MR. McDONOUGH: I object, because certainly the jar don't belong. There's no connection with Culombe. There's two objects, apparently, in a piece of paper, that are still wrapped up. We don't know what's in them. As far as the record shows, they haven't been connected with Culombe at all.

MR. BILL: If that's the objection we can soon cure that, Your Honor.

MR. McDONOUGH: Well, let's cure it.

MR. BILL: I will. I was going to ask him to produce it, anyway.

Q. Now, inside of that jar, State's Exhibit Q for identification, was there something in there when it was delivered to you? A. Yes, sir; there was.

Q. And what did you find? A. I found a .32 caliber damaged lead bullet, and a piece of lead.

Q. And did you remove those parts at any time?
A. Yes, sir; I did.

Q. And did you always keep them in your possession?
A. Yes, sir.

Q. Will you remove them now from the bottle that is marked? And are those the articles that you just described? A. Yes, sir, they are.

MR. BILL: I offer them now in the Culombe case.

THE COURT: Do you object?

MR. McDONOUGH: May I examine, Your Honor?

THE COURT: Surely.

BY MR. McDONOUGH:

Q. Where is the bullet, Captain? That's what you say is a bullet? A. Yes, sir.

Q. How do you know it's a .32 caliber? A. Because it was examined and compared with .32 caliber bullets.

Q. Did you examine it and compare it with other .32 caliber bullets? A. I compared its weight, its present weight, and it is in the category of the weight of a .32 caliber lead bullet.

Q. But the whole bullet isn't here, is it? A. No, sir.

Q. Part of it is lost? How large is the part that is lost?

A. That bullet would normally weigh 85 grains, and this part -

THE COURT: He has it in his hand.

A. That part, the large portion, is 57 grains, and this other portion weighs 12 grains.

Q. Isn't it a surmise, Captain, that that is a .32 caliber bullet? Isn't that the fact, that it is a surmise? A. No, sir; I know it to be a .32 caliber bullet.

Q. Do you know what gun it came from? Can you swear what gun it came from? A. No, sir.

Q. You can't say that it came from any gun that has been offered -

MR. BILL: I object to that, Your Honor.

MR. McDONOUGH: I haven't finished my question.

THE COURT: Finish it.

Q. You can't say that it came from any gun that has been offered as an exhibit in this case, can you?

MR. BILL: Objection.

THE COURT: Sustained.

MR. McDONOUGH: Do you claim, Mr. Bill, that merely because it is a .32 bullet it is admissible?

MR. BILL: I claim that it came from the brain of Edward Kurpiewski and has been followed down through and these are the fragments that came from there, and they are admissible as such as having caused the death of that man, as testified to by the doctor.

MR. McDONOUGH: They still, Your Honor, haven't connected it with Culombe.

THE COURT: But it is admissible in evidence.

MR. McDONOUGH: I just want the record clear, so for the purpose of keeping the record clear, I'll object on the ground there is no connection with Culombe, though I realize the state of the evidence.

THE COURT: There's one thing that concerns the Court. There is no evidence whatsoever concerning the paper in which it is wrapped.

MR. BILL: I was going to develop that further, because I suppose if I am now offering that I am offering these two segments, these two particles, and then it is those that were started out as being extracted from the brain of

Edward Kurpiewski. I'll explain why they are wrapped and who wrapped them.

THE COURT: I don't see that the paper is admissible under any circumstances.

MR. McDONOUGH: I'll save time, Your Honor. I'll withdraw the objection.

THE COURT: All right. Mark it as a full exhibit.

MR. BILL: May we have the bottle marked? It is already marked.

MR. McDONOUGH: I won't object.

MR. BILL: That's simply the carrier with the paper around it.

MR. McDONOUGH: It's perfectly all right.

THE COURT: May be marked a full exhibit, Q, in the case of Culombe, 21,666.

(Jar containing fragments of bullets, previously marked "State's Exhibit Q for identification", received in evidence as a full exhibit in Case No. 21,666, Culombe.)

Q. Now, State's Exhibit NN I show you, and I also show you State's Exhibit GG. Now, whether or not you made any test between those exhibits I just named to see if the parts of Exhibit GG fit Exhibit NN, as Mr. Stanhope testified to? A. Yes, sir; I did.

Q. And what did you find? A. I found that the parts in State's Exhibit GG fit the frame of the Harrington Richardson revolver, State's Exhibit NN.

Q. Now, did you - That's withdrawn. What was the process that you used and the procedure, Captain, when you were seeking to determine whether a certain bullet was fired from a certain gun? Will you explain to the Court what it was? A. Yes, sir; I will. In all firearms or rifles -

MR. McDONOUGH: I object to that question, Your Honor. If he'll confine it to the exhibits in question here, but not to go into a long discourse on any guns in general.

THE COURT: Of course I sustain the objection, but not on that ground. There isn't any evidence whatsoever that any test was made.

MR. McDONOUGH. I object, Your Honor, on that ground.

MR. BILL: I'll go directly to it.

THE COURT: All right.

Q. Did you make a test of this State's Exhibit NN in connection with any bullets? A. Yes, sir; I did.

Q. And what did you do in connection with Exhibit NN, and what bullets did you test, if you did? A. I fired test shots after I assembled State's Exhibit NN, and recovered the bullets for comparison purposes.

Q. Now, how did you do that? What did you do, actually, so the jury will understand? A. In order to compare the usual -

Q. Don't tell us in general. In this particular case, in order to compare, what did you do? A. I fired test shots.

Q. From where? A. From State's Exhibit NN.

Q. Where did you do this? A. In the laboratory.

Q. And what did you fire them into? A. It was fired into what we call a bullet recovery box.

Q. And what did you fire in the way of bullets?
A. I fired two Winchester S. & W. cartridges.

Q. And what was the name of it? A. Winchester.

Q. And what was the caliber? A. .32 caliber.

Q. And after you fired these two shots what did you do? You say you fired them into what? A. Into cotton.

Q. Is that a board raised up as a target? Captain, what is it? A. The bullet recovery box is a box about three feet long; it is filled with cotton waste. The first third is filled with absorbent cotton. We fire our test shots into this box.

Q. You did in this case? You fired the test shots, did you? A. Yes, sir.

Q. Into that box? A. Yes, sir.

Q. What was the purpose of the cotton? A. That's so that the bullet will be stopped and that all of the markings imparted to it by the interior of the barrel of the gun being fired are retained for comparison purposes.

Q. Did you in this case recover these two bullets? A. Yes, sir; I did.

Q. Did you find anything on them that wasn't there before when you fired these two bullets? A. Well, we find the impressions of the rifling of this particular gun impressed on the bullets, and any other markings that are imparted to it by the barrel in the condition in which it was.

Q. What condition was that gun, Exhibit NN, when you received it and also when you fired it? A. Well, the barrel, the interior of the barrel is in very poor condition; rusty and pitted.

Q. Rusted and pitted? A. Yes, sir.

Q. And did that in any way interfere with your test?

MR. McDONOUGH: I object to that. Let him tell what his tests were and what he did, and that's all. Never mind the interference.

MR. BILL: I claim it.

THE COURT: The objection is on the ground that it is leading?

MR. McDONOUGH: It is leading, Your Honor, first.

THE COURT: Secondly, what?

MR. BILL: I'll withdraw it, Your Honor.

THE COURT: All right.

Q. Were you able to make a test with this revolver, actually? A. A comparison with the -

Q. Yes, a comparison test? A. I made a comparison.

MR. McDONOUGH: That doesn't answer the question, Your Honor. I move to strike it out.

THE COURT: It may go out. The question may be asked. If you understand it, please answer it.

MR. BILL: I'll withdraw the question.

Q. Did you make a comparison test? A. Yes, sir, I did.

Q. And in making the comparison test what did you do? A. I placed one of the test shots, fired through the barrel of State's Exhibit NN and recovered, on one stage of the comparison microscope. I might explain the comparison microscope so that the jury will understand what the comparison consists of, if I have the Court's permission.

MR. McDONOUGH: I think the witness ought to stick to the question, Your Honor.

THE COURT: I think he ought to answer the questions, myself. I agree with you, Mr. McDonough.

MR. BILL: I'm not claiming it.

THE COURT: I know.

MR. BILL: That was a request by the witness.

Q. After you recovered the bullets, in this test that you - comparison test, what did you do? A. I compared them on the comparison microscope.

Q. And what result did you get? A. I couldn't get an identification.

Q. And when you say that, what do you mean? An identification of what? A. I couldn't get an identification or a match of the test bullets fired through this gun, with the bullet in State's Exhibit Q.

Q. And why couldn't you?

MR. McDONOUGH: I object, Your Honor.

MR. BILL: I claim it.

MR. McDONOUGH: I object. He couldn't do it, and that's the answer.

THE COURT: I heard you, and I'd like to hear Mr. Bill. How do you claim it?

MR. BILL: I think it ought to be explained, I think it's desirable to understand why he couldn't make the test.

THE COURT: I'll sustain the objection.

Q. Did you make a comparison? A. Yes, sir; I did.

Q. And in making the comparison what did you do?

MR. McDONOUGH: I object. That's repetitious.

MR. BILL: No, I claim it, Your Honor.

THE COURT: I don't see why. He says he made a comparison test and he couldn't get any identification between that and Exhibit Q. I don't see any purpose in this question.

MR. BILL: I don't know - I certainly don't, and the

jury doesn't, I suppose, what he did. He made a comparison and how did he do it? Lay them side by side, or what?

THE COURT: What difference does it make if he couldn't make an identification? I'll sustain the objection.

Q. Did you do anything further with this gun or these bullets? A. With State's Exhibit NN and Q?

Q. Yes. A. No, sir; that was the finish of it.

THE COURT: Perhaps this will be a good place to stop. Will you escort the accused from the Courtroom?

(Accused escorted from Courtroom.)

THE COURT: Ladies and gentlemen of the jury, the usual instruction, you will not talk to anyone about this case or allow anyone to talk with you; should there be anything in the papers tonight or tomorrow morning about this case you will not read that portion of it; should there be any comment on radio or television you will ignore it. When you report tomorrow, you to the jury room, if you please, and you to the alternates' room. You are now excused until ten o'clock tomorrow morning and you may retire. Sheriff, you may adjourn Court until tomorrow morning at ten o'clock.

(Court adjourned, 4:55 P.M.)

THURSDAY - JUNE 20, 1957

THE COURT: Bring up the accused, Sheriff.

(Accused present in the courtroom at 11:01 A.M.)

THE COURT: May I have the jury and the alternates?

(Jury and alternates seated at 11:03 A.M.)

THE COURT: Has the attendance been taken, Jim?

MR. COBURN: Yes, Your Honor.

THE COURT: It seems a funny thing to say, but I say it seriously: If you find this fan is too much on you, I will turn it off. You may proceed when you are ready, Mr. Bill. Incidentally, it isn't too much yet, is it?

MR. BILL: Captain Chameroy.

FRANK V. CHAMEROY, previously sworn, recalled by the State.

DIRECT EXAMINATION BY MR. BILL:

Q. Captain, showing you State's Exhibit Q, there is some blue paper in that bottle and it has been questioned as to what that was. Can you explain that? A. Yes, sir, I can.

Q. Will you proceed?

MR. McDONOUGH: May I have that question please?

(The reporter read the question.)

MR. BILL: May I withdraw that and say this.

Q. The bottle isn't in evidence, but the contents of the bottle, the bullets that you described in Q - they seemed to be wrapped in some blue paper. Can you explain that blue paper? A. Yes, sir, I can.

Q. Will you? A. I wrapped the bullets and piece of lead in blue paper myself just to protect them from banging around in the jar while it was being passed around.

Q. Now, Captain, will you produce State's Exhibit R-1 and R-2 for identification? A. Yes, sir.

Q. How did you get those into your possession?

A. State's Exhibit for identification R-1 and R-2 were delivered to me by Detective Gutowski on December 17th, 1956.

Q. Have you had both of those exhibits for identifi-

cation in your possession since that time? A. Yes, sir, I have.

Q. And is the receptacle and the contents in the same condition now as when you received them in both of those exhibits? A. With the exception of the broken rims of the covers, they are in the same condition.

Q. On both of these bottles or jars of this exhibit, you say they were broken? A. Yes, sir.

Q. And did they become broken in your possession?
A. Well, yes, sir they did.

Q. Under what circumstances? A. Well, when I was working on them - the contents - they became tightened too much by me and in forcing the covers I broke them.

Q. So you broke the covers of the jars?
A. Yes, sir.

Q. In both instances, is that right? A. Yes, sir.

Q. In handling them. It is also visible that the contents of the jar has blue paper in each instance. Can you explain that? A. Yes, sir, I wrapped the contents in the blue paper in both State's Exhibits for identification R-1 and R-2.

Q. Now, take the contents, if you will, from State's Exhibit R-1 for identification, and remove the contents from the bottle, and what have you? A. I have a small piece of lead and a damaged .32 caliber bullet.

Q. And will you remove the contents from the other exhibit, R-2? Let me take them separately - the contents of R-1. It might be confusing. Let us start off with R-1 which you just opened and you testified what that was. Now, as a ballistic expert, did you make some sort of test in connection with the bullets you have described you took from that bottle? A. Yes, sir, I did.

Q. And what were you testing the bullets against?
A. The .32 Russian revolver.

Q. Is that the State's Exhibit MM you are speaking of? A. Yes, sir.

Q. Now, in relation to the contents of State's Exhibit R-1 for identification -

MR. BILL: In connection, Your Honor, with the contents of State's Exhibit R-1 for identification, I offer those in the case of State versus Taborsky as full exhibits.

MR. BURKE: I object to it, Your Honor.

THE COURT: What is the objection?

MR. BURKE: I object to it on the ground that I originally made when Doctor Rosahn testified, and he testified he did not know what was in the jars, and I claim that there is no evidence to show up to now which will show that what the Doctor put in those jars is the same thing this man has before him. Doctor Rosahn said, and it is in the testimony here, that he did not know and could not recognize the contents.

THE COURT: That is your objection?

MR. BURKE: Yes, sir.

THE COURT: I will overrule the objection and admit it in evidence. It may be so marked as Exhibit R-1 in case number 21,665, a full exhibit.

MR. BURKE: An exception?

THE COURT: Surely. A full exhibit.

(Jar marked State's Exhibit R-1 for identification marked a full exhibit in case number 21,665.)

Q. Now, did you take these bullets, being the contents now having been marked State's Exhibit R-1 and make a test with the Russian pistol, State's Exhibit MM?

A. Yes, sir, I did.

Q. In what condition are the bullets in R-1?
A. Damaged.

Q. Damaged? A. Yes, sir.

Q. That is the bullet and the particle, is that what you are speaking of? A. Yes, sir.

Q. And when you received State's Exhibit R-1 were they in that same condition - damaged condition?
A. Yes, sir, they were.

Q. And now you said you made a test - did you make the test to determine whether R-1, the bullet was fired from the pistol - the Russian Pistol, State's Exhibit MM?
A. Yes, I did.

Q. And were you able to determine whether or not it was fired from that pistol?

MR. BURKE: I object to this, Your Honor.

THE COURT: I will let him answer yes or no to that, Mr. Burke. Can you answer that yes or no?

THE WITNESS: Was the question completed?

THE COURT: Would you read it, Mr. MacGlashan?

(The reporter read the question.)

THE COURT: Yes or no.

THE WITNESS: No.

Q. Now, on R-2 - will you remove the contents of that - that is, for identification. What do you find? A. A .32 caliber damaged lead bullet.

Q. And I think you told us when you received that - perhaps not - will you tell us? A. I received it from Detective Gutowski on December 17, 1956.

Q. And is there any change in the exhibit or of the jar or the inside of the contents now than when you received it? A. First, I will say, as I explained before, that the cover became stuck, and in forcing it, I broke the rim off the cover. As far as the .32 caliber lead bullet is concerned it is in the condition I received it on December 17th.

Q. How about the blue paper wrapped around?
A. I wrapped the blue paper around the bullet.

Q. Whether or not you made a test of this particular bullet with some pistol? A. I did.

Q. And with what pistol did you make it?

MR. BURKE: I am going to object.

THE COURT: Not yet. Let him finish the question. Finish your question, Mr. Bill. Read it, Mr. MacGlashan.

MR. BILL: I withdraw it.

I offer the bullet in the case of State versus Taborsky - State's Exhibit R-2 for identification.

MR. BURKE: I object to the offer.

THE COURT: For the same reason?

MR. BURKE: The same reason that it hasn't been shown that it is the bullet. I assume it is being offered merely to show it was a bullet taken from one of the men in New Britain, as I recall the transcript, and the transcript is clear that the Doctor who testified to it could not identify the objects in the jar as the one he put in.

THE COURT: Overrule the objection.

MR. BURKE: Exception.

THE COURT: Surely. Mark it a full exhibit.

(State's Exhibit R-2 for identification marked as a full exhibit in case number 21,665.)

Q. Now, did you take the bullet, R-2 Exhibit R-2, and make a test with it? A. I did.

Q. And did you make a test of it with some pistol? A. Yes, sir.

Q. And with what pistol did you make the test?

MR. BURKE: Objection, Your Honor.

THE COURT: What is the objection?

MR. BURKE: If it's the pistol, State's Exhibit MM, that is not in exhibit in the Taborsky case.

MR. BILL: I will withdraw the witness - or I will state now that I will connect it up with Taborsky afterwards. I will withdraw the witness if necessary, but I will make this statement that I definitely intend to connect this Russian pistol with Taborsky.

THE COURT: Is that satisfactory?

MR. BURKE: That is satisfactory, subject to Your Honor striking it out if it is not connected.

THE COURT: Well, you may so move, if it isn't. I will overrule the objection. The answer may be given. Do you remember the question.

THE WITNESS: No, sir.

THE COURT: Would you read it, Mr. Burke?

(Last question read by reporter)

A. With State's Exhibit MM, the Russian .32 caliber revolver.

Q. You testified as to the condition of this bullet, did you not? A. Yes, sir.

Q. State's Exhibit R-2? A. Yes, sir.

Q. Was in what condition? A. Damaged

Q. And could you determine from your test whether or not this bullet, R-2, was fired from the pistol, State's Exhibit MM? A. I could not.

Q. Have you got State's Exhibit Q? Just one item that I want to have explained about State's Exhibit Q. I don't believe that I asked you. What is that paper, that blue paper that is in the jar. Do you know? A. Yes, sir, I do.

Q. And what is it? A. It is blue paper that I wrapped around the piece of lead and lead bullet that was in the jar when I received it.

Q. Otherwise is State's Exhibit Q in the same condition as to the jar and the bullets and the contents other than what you have just described here when you received it? A. It is.

MR. BILL: Your witness.

THE COURT: Mr. McDonough.

MR. McDONOUGH: No questions, Your Honor.

THE COURT: Mr Burke.

MR. BURKE: No questions, Your Honor.

THE COURT: Very well you may step down, Captain.

MR. BILL: Lieutenant Rome.

THE COURT: Sit right down, Lieutenant.

SAMUEL ROME, having been previously sworn was recalled by the State and testified as follows:

DIRECT EXAMINATION BY MR. BILL:

* * * * *

Q. I show you State's Exhibit MM -

MR. McDONOUGH: What case is that in, Mr. Bill?

MR. BILL: That is in the Culombe case.

Q. - and I ask you if you have seen that before?
A. Yes, sir.

Q. I ask you when you first saw it? A. I saw it about 2:00 p.m. on February 28th, when it was handed to me by Officer Fersch, at the -

Q. Now, just prior - that's withdrawn. Where was that? A. That was on Newfield Street, near Dexter.

Q. And just prior to that where had you been and with whom? Not the exact location, but were you in a car?
A. I was in an automobile with Arthur Culombe and others on the way to New Britain.

Q. And did you receive a radio call? A. I did.

Q. And in response to that call where did you go?
A. I went to the scene of the swamp at the corner of Newfield Street and Dexter.

Q. And did the occupants of the car, including Culombe go with you in the car, there? A. Yes, sir.

Q. And was the accused Culombe present when that gun was turned over to you? A. He was.

Q. And whether or not you had any conversation with the accused Culombe in connection with that pistol, Exhibit MM? A. Yes, I did.

Q. And what was it? A. I showed him this gun, revolver, and he said that that was his, that is the gun that he gave -

MR. BURKE: Objection, Your Honor.

MR. BILL: He hasn't finished the answer.

MR. BURKE: That's why I want to object at this time.

THE COURT: He has got a right to do it. That applies to State vs. Taborsky, and I'll sustain the objection and direct the jury, as I did yesterday, that this evidence is not being received in the case of State vs. Taborsky and is to be eliminated from your consideration of that case, but I will admit it in the case of State v. Arthur Culombe. Now you may proceed.

MR. BURKE: Your Honor, may I also for the record make this objection that it is my contention that this admission, even in the Culombe case does prejudice the jury against Taborsky, and we object to it on that grounds too.

THE COURT: I will overrule the objection on that ground, although I sustained it on the other.

MR. BURKE: May I have an exception?

THE COURT: Surely. Go ahead.

A. And that is the gun that he, Arthur Culombe, gave to Joseph Taborsky the night that they went to New Britain and held up Kurp's gasoline station.

Q. Now, at a later date did you at sometime show that gun to Joseph Taborsky? A. I did.

Q. And when was that? A. That was on Saturday afternoon, Saturday around noon, March 2nd.

Q. Where? A. At the State Police Headquarters.

Q. Under what circumstances? A. I asked Captain Chameroy, who had possession of it at the time, to loan it to me, and he brought it upstairs and I brought it into the room where Joseph Taborsky was and I showed him this gun.

Q. Was there anyone else in the room? A. Sergeant Paige, Joseph Taborsky.

Q. Go ahead. A. And Joseph Taborsky says that he recognized that gun by the plastic handles, a crack in the handle, and the writing on the side, and that that was the gun that Arthur Culombe - not mentioning him by name - had turned over to him, loaned him the night of December 15th.

Q. Now, in examining that gun at that time and now do you see any cracks in the handle there? A. Yes, sir.

Q. And writing?

MR. BURKE: I object, Your Honor. This is testifying from an exhibit not in evidence - this gun.

THE COURT: I will sustain the objection.

MR. BILL: I will offer it.

THE COURT: In the Taborsky case?

MR. BILL: In the Taborsky case.

THE COURT: Is there objection?

MR. BURKE: I will object to it.

THE COURT: Do you want to state the grounds?

MR. BURKE: Yes. I think that the gun is not shown in anyway to be connected with the offense alleged. The Captain has testified that they can't tie up these bullets with the gun, that particular gun, and as I understand this Mr. Witness' testimony here he said that Taborsky said that is the gun that somebody gave him. He didn't say that Culombe gave it to him, and that gun has been shown to be the property of Culombe.

THE COURT: Had you completed your objection?

MR. BURKE: I have, Your Honor.

THE COURT: I will overrule the objection.

MR. BURKE: May I have an exception?

THE COURT: Surely. And I will admit Exhibit MM in Case No. 21,665, it already being MM in case No. 21,666.

(Russian revolver received in evidence and marked "State's Exhibit MM, Case No. 21,665, Taborsky")

Q. Referring to this State's Exhibit MM, at the time that you were in the presence of Taborsky and this conversation took place about cracks, did you see any cracks in the handle of the gun, or anywhere? A. Yes, sir, on the plastic grip.

Q. Do you see them now? A. Yes, sir.

Q. Will you show His Honor? (Witness exhibits gun to the Court).

THE COURT: I see it.

Q. Will you pass in front of the jury, the alternates, go through in front of the jury, showing it? Don't say anything, Lieutenant Rome. Just show it to them.

(Witness exhibits gun to jury and alternates)

Q. If there is any writing, point that out.

THE COURT: You may proceed, Mr. Bill.

Q. Did you point out the writing to the jury? A. I did.

MR. BILL: Your witness.

THE COURT: Mr Burke, I take it - excuse me. Mr. McDonough, do you have any questions? Mr. McDonough, did you hear me?

MR. McDONOUGH: Beg your pardon?

THE COURT: Do you have any questions of the Lieutenant?

MR. McDONOUGH: No, Your Honor.

THE COURT: Mr. Burke.

CROSS EXAMINATION BY MR. BURKE:

Q. You say that this gun was turned over to you on February 28th? A. Yes, sir.

Q. And that you had it on March 1st? A. No, sir.

Q. The police had it on March 1st? A. Captain Chameroy did.

Q. He is in the state police, isn't he, Lieutenant? A. Yes, sir.

Q. The police had it then, didn't they? A. Yes, sir.

Q. And you knew that they had it? A. I turned it over to them.

Q. You knew that they had it? A. Yes, sir.

Q. And on March 1st is the date that you talked to Taborsky on this question and answer business which is in this case, the so-called confession.

Q. You didn't show him the gun that day? A. No, sir.

Q. Now, never did Taborsky tell you that he got a gun from Culombe, did he? A. He got a gun from the other guy that went to New Britain with him the night of this hold up, yes, sir.

Q. With him the night of this hold up? Did he ever mention Culombe's name? A. No, sir.

Q. So that he had never said that he received any kind of a weapon from Culombe, did he? A. Not by name, sir, but the man who went -

Q. Never mind that.

* * * * *

VINCENT J. O'BRIEN, having been previously sworn was recalled by the State, and testified as follows:

DIRECT EXAMINATION BY MR. BILL:

* * * * *

Q. Was a gun discussed there? A. Yes, sir.

Q. And was it discussed with Culombe? A. Yes, sir.

Q. And what was the nature of that discussion? Who said something? A. Lieutenant Rome asked him -

Q. Asked who? A. Asked Culombe who he gave this gun to.

Q. And that was the gun that Rome had at that time? A. Yes, sir.

Q. Go ahead. A. Culombe answered that he had given it to Joseph -

MR. BURKE: I object to this, Your Honor, on the grounds that it is prejudicial certainly to my client, and that is the reason for the introduction of this evidence, and besides that it isn't admissible in the case against Taborsky.

MR. BILL: It isn't for that purpose.

THE COURT: No, I will sustain the objection in so far as Taborsky is concerned. The jury will disregard this evidence and what is now to come in the case of State vs. Taborsky and give it no consideration in that case whatever. However, it is admitted in State vs. Culombe. You may proceed.

MR. BURKE: May I have an exception to its admission at all, Your Honor.

THE COURT: Yes. Go ahead.

A. He said that it was the gun that he had given to Joseph Taborsky.

Q. Anything further? A. He asked Culombe what calibre it was. He answered that it was a .32. He asked him where he had thrown it out in the pond, and Culombe pointed to workmen who were in the pond, and indicated that it was near where they were.

Q. Was there any conversation about where the gun was used? A. Yes, he said that that was the gun that was used in New Britain. He was later asked -

MR. BURKE: I object to this. There is no question pending.

THE COURT: That's right.

Q. What was he asked? A. He was also asked by

Lieutenant Rome as to where another gun was, and he said that it would be a few feet away, and that the other gun was in two parts.

MR. BILL: Your witness.

JUNE 20th, 1957. 2:20 P.M.

THE COURT: Bring up the accused, Sheriff.

(The accused present)

(Jury and alternates not present)

THE COURT: You may proceed when you are ready, Mr. Bill.

MR. BILL: If it please the Court, I suppose no other law is more misunderstood or misinterpreted than this two witness rule, on the face of it being called a two witness rule might infer to anyone that hasn't read the cases that in order to prove a murder case you have got to have two eye witnesses. Now, of course, when that is analyzed it is ridiculous, because the crime of murder nine out of ten times is done in the absence, particularly and meaningly and on purpose in the absence of witnesses.

I am not going to argue to any great length because I know Your Honor knows the cases and knows the rule, but Mr. Burke has enlarged on it, and in defense of our case that it does fit the rule I do want to make these remarks.

There is a long line of cases. Probably the best cases are *State vs. Shute*, 97 Conn., 466, and *State vs. Chapman*, 103 Conn. 453. *State v. Chin Lung* 106 Conn., 701, *State vs. Palko*, 122 Conn, 529, *State vs Pond*, 123 Conn., 666. *State vs. Cots*, 126 Conn., 48, *State vs. Taborsky*, 139, Conn., 476 and *State vs. Malm*, 142 Conn. 113 and many others, but those are the well known cases.

Now, the rule is well stated in the Taborsky case where it goes back to the days of Swift, that "If there be two or more witnesses, each testifying to different parts of the

same transaction, or to different circumstances attending it, and all concurring to prove the crime alleged, this will be sufficient to warrant a conviction, though there should not be any two witnesses to any one fact. By 'different parts of the same transaction, or different circumstances attending it,' the author refers to relevant facts tending to prove an essential element of the capital crime charged. All that the statute requires, therefore, is that the proof of all the essential elements of the capital crime charged, each of which must be proved beyond a reasonable doubt, shall not depend upon the testimony of one witness. If one or more witnesses testify to facts relevant and sufficient to prove some of the essential facts of the capital crime charged, and another witness or witnesses testify to facts relevant and sufficient to prove the remaining essential facts, the jury may find that the statute has been satisfied."

There is also the two witnesses or equivalent thereto. Of course, the case that identifies itself most particularly to this case, Mr. Burke left out completely, whether or not on purpose, or he didn't read it, and that is *State vs. Malm* that was tried in this court here, and that is 142 Conn., 113, at 110, the fact that has to do with the two witness rule. Now, that case went on through to the Supreme Court, and if Your Honor remembers the facts in that case, nobody identified Malm. He is the man that strangled the little girl here in Hartford. Nobody saw him do it. He confessed and there were corroborative facts tying him in with the confessed act and corroborating those facts, and there were other witnesses as to material facts, all culminating in the crime itself.

Now, he was just as clear from being seen by any witness at all down there in the south end of the city where he strangled this little girl, or was there, as these two men who were at the gas station in New Britain. We have even got more than that, because in the Malm case we didn't have any evidence as to his own whereabouts that day or

some of the things that he did that would have linked him with the crime, except what he said himself. Here Your Honor must remember that we had a lady, Mrs. Quattropani, who saw these two men together moving a television set before the time of the crime, and we traced these two men - this was at Culombe's house, outside of Culombe's house - and we traced them again by Mr. and Mrs. Harris as being in a car subsequent to the crime, and they were in there together. We have got in addition to their confession a corroboration of circumstantial facts that fit in with the confession, and I don't need to enumerate them. Your Honor has heard them. Things in and about the station that only they would know. We have got Culombe identifying a gun that was used in the New Britain affair, according to his admission, that was found in the swamp, according to his direction, that is linked up with parts of the gun found in his home. That puts him right in there. Taborsky had identified the gun, the Russian gun, and there has been testimony of cracks in the handle, and they are there.

Now, as I say, if you read the Malm case I think that is as near as we have to go, where the Court then states that there was just a confession and then these corroborative facts, a bag of potatoes and some cookies which the little girl had purchased at a store, and the tip that was on the socks of the accused, and other things out there at the scene, and we have them here and they were both identified and this is a better case than the Malm case.

So the rule, Your Honor, according to the State has been well complied with and it is a matter that has been, as I say, discussed and ruled on many times, and we feel that the State is well within the two witness rule.

MR. BURKE: May it please the Court, I would like to answer one or two of Mr. Bill's arguments -

MR. BILL: Oh, before that, Mr. Burke, will you just let me add one other thing.

There was something said here about we didn't prove the robbery. Well, the Rogers case in 143 Conn., at 176 says "Whether she was killed before the money was taken or whether she was killed moments thereafter, we fail to see that the Court was in any way enlarging the letter of the indictment. An attempt at robbery is of the same significance as an actual robbery, if in either instance a life is taken. A charge of attempt is included within the charge of a completed offense."

Now, we show around the station the cabinet drawers pulled out, papers littered around. In their confessions they each said that money was taken, and that is within that same rule of corroboration, and we show the death of these men which there could be no other inference but what it was done in the act of a robbery, going in there illegally and killing those men, and we claim, of course, that is within the rule.

* * * * *

MORRIS KAPLAN, a witness on behalf of the accused Culombe, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Morris Kaplan.

Q. Your address? A. 14 Summer Street, Bridgewater, Mass.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Doctor, you have competition, you have a fan in back of you and a jury down here.

THE COURT: He has the fan in back of him but it isn't doing anything.

Q. Where do you live 14 Summer Street, South Bridgewater, Mass.

Q. You are a practicing physician? A. That's right.

Q. Where do you practice, Doctor? A. At the Bridgewater State Hospital, South Bridgewater, Massachusetts.

Q. And you specialize in what? A. I have been doing psychiatric work for the last ten years.

Q. What type of hospital is that? A. That is a hospital designated for the criminally insane.

Q. And located in the State of Massachusetts?
A. South Bridgewater, Mass.

Q. And is it a State institution? A. That is right.

Q. Your position is what? A. Clinical Director.

Q. In your position do you have under your control and supervision of patients or inmates of the hospital?
A. Yes, sir.

Q. In response to a subpoena, have you here the clinical and case records of Bertram Arthur Culombe.
A. Of Bertram Culombe, yes, sir.

Q. And what date is that? A. You mean the date of admission?

Q. Yes, sir. A. June 11, 1941.

Q. Does it show the time of discharge? A. July 16, 1941.

Q. And what address does it give of the patient or the inmate? A. You mean home address?

Q. Yes. A. Actual home address, 37 Brownell Street, Fall River, Mass.

Q. And his age is 17 years? A. On admission it was seventeen years.

Q. You do not know Bertram Culombe personally, do you? A. No, this was long before my time.

Q. Have you the records with you, Doctor?
A. Yes, sir, this is the entire record.

MR. McDONOUGH: May that be marked for identification, Your Honor.

THE COURT: Yes, Do we have a number in the Culombe case.

MR. BILL: Yes, we have. The last one was six.

THE COURT: This may be marked seven for identification in 21,666.

(Hospital record of Culombe marked Defendant's Exhibit 7 - Culombe - for identification - number 21,666.).

Q. Doctor, looking at defendant Culombe's Exhibit 7 for identification, can you tell us what date the discharge was from the institution - what is shown there? A. July 16, 1941.

Q. And from those records does it appear how he happened to be in the institution?

MR. BILL: I object, this is in for identification.

MR. McDONOUGH: I offer it in evidence.

THE COURT: Is there objection?

MR. BILL: Well, there is this objection - unless - I presume it can be shown later - but we know of no Bertram Culombe.

THE COURT: The testimony is that his name is Bertram Arthur Culombe.

MR. McDONOUGH: We will connect it up.

THE COURT: That is the evidence before me.

MR. McDONOUGH: We will connect it up to show it is this defendant and we will have the physician here.

MR. BILL: With that promise I have no objection.

THE COURT: It may be marked a full exhibit, and I suppose we might as well mark that as seven, Mr. McDonough.

(Defendant's Exhibit 7 for ident. marked full.)

MR. McDONOUGH: Doctor, that will have to remain here and I will see that it gets back to you.

THE COURT: I want to point out to you Mr. McDonough in the system that I am following and will follow, there are omissions numerically in your exhibits because there are at least one or two of the exhibits that have been taken by the State, but I would prefer, unless you have objection, to go along and just skip two and three or whatever.

MR. McDONOUGH: Yes, and have the rest as seven, eight and nine.

THE COURT: That is right, so this will be Exhibit seven.

MR. BILL: I think I should be allowed to read the exhibit.

THE COURT: He is going to read it?

MR. BILL: I didn't know, but what it was going to be used in connection with the next witness.

MR. McDONOUGH: I don't intend to.

MR. BILL: I don't know whether I should have to read it.

THE COURT: Let the evidence go to the point where you feel you might need it and I will give you an opportunity to look it over.

MR. BILL: Thank you, Your Honor.

ARTHUR CULOMBE, the accused, previously sworn, recalled by Mr. McDonough.

THE COURT: Mr. McDonough, I have asked you this before, but for the record again, I have the right to assume that this witness has been advised of his rights.

MR. McDONOUGH: Yes, Your Honor, he has been fully advised. This witness has been sworn and is recalled.

THE COURT: That is right.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Now, Culombe, how old are you today?
A. Thirty-three years old.

Q. Where were you born? A. Fall River, Mass.

Q. Where did you go to school? A. I went to school in Fall River, Mass.

Q. How many schools have you gone to? A. About four or five.

Q. What was the first school you went to?
A. A Catholic school.

Q. And what was the name of the school?
A. I don't know the name of that.

Q. How long did you remain in that school?
A. Oh, for sometime - a period of two or three years, I guess.

Q. What was the next school you went to? A. The next school was St. Joseph's School, another Catholic school.

Q. Where was that located? A. It was located in Fall River on Main Street.

Q. How long did you go there? A. I can't remember how long that was.

Q. For how long did you stay there? A. It must have been perhaps five years or less.

Q. Do you know how old you were when you started going to school? A. Five or six.

Q. What was the next school you went to?
A. I went to a public school.

Q. And how many years did you go to a public school?
A. About three or four or five years.

Q. Do you remember the name of that school?
A. Well, I know it is down in the north end of Fall River but I don't know the name of it.

Q. Do you know how long you went to that public school? A. About four or five years, I guess.

Q. Now, how old were you when you left school?
A. Sixteen years old.

Q. Do you remember the grade you were in when you left school? A. Yes, I do.

Q. What grade? A. Special third grade.

Q. Special third grade? A. Yes, sir.

Q. What did you do after you left school?
A. I worked in a bowling alley.

Q. Where was the bowling alley located?
A. In Fall River, Mass.

Q. Do you remember the name of the bowling alley?
A. Durfee's Bowling Alley.

Q. How long did you work there? A. About a month.

Q. What did you do after that? A. I worked in the Army Trunk factory in Fall River, Mass.

Q. How long were you there? A. About a month.

Q. Where were you living - what street - at that time? A. Well, at the time I worked in the bowling alley I believe I lived on - down the north end - Main Street - I don't know the name of the street.

Q. Who were you living with? A. With my father and mother and brothers and sisters.

Q. After you left the trunk factory where did you go to work? A. Well, I didn't go to work - I went to the State School for Boys at the Lyman School in Westboro, Mass.

Q. What kind of a State School was that? A. It is more of a training school than anything else.

Q. An Industrial School? A. Yes, sir.

Q. A Reform School? A. Well, it is classed as an industrial and reform school, both.

Q. How long were you there? A. Well, the first time I believe I was there about six or seven months.

Q. Tell us, how did you happen to go there? A. Well, I was involved for breaking and entering and stealing bicycles and things like that.

Q. Did you go there of your own free will or were you sent there? A. No, I was sent there by the Court.

Q. What Court? A. Fall River, Mass.

Q. How long did you stay there? A. About six or seven months the first time.

Q. And after you got out of there in six or seven months what did you do? A. I don't think I did anything at that time but just hang around for awhile.

Q. Did you go back to any school or did you go to work? A. Well, I can't remember that.

Q. Did you go back to that school later? A. I did.

Q. How did you happen to go back to the Lyman School? A. I got involved in more breaking and a theft and got caught.

Q. How long did you remain there at that time?
A. About a year and a half.

Q. During the time you were there, the first or second time, were you involved in any accident? A. Yes, I was involved in an accident while we were playing baseball.

Q. What happened to you? A. Well, I missed the ball - catching it - and I got hit in the head with the ball.

Q. Was that the first or second time you were there?
A. No, that was the second time I was there.

Q. You got hit in the head with a ball - what happened to you? A. It knocked me unconscious.

Q. And after you left school on the sceond trip what did you do - where did you go? A. Well, I was out for a short while, maybe a period of about a month. Then I went into the City of Brockton, Mass., to look for a job. I didn't have no luck getting a job so I decided to steal an automobile.

Q. Tell us about that. A. Well, I was out with another fellow at the time.

Q. Did you drive the car? A. No, I didn't know how to drive a car but I was in the car.

Q. Go ahead. A. We decided to steal this car - the keys was in it - and go for a joy ride, and we just got in the car and started it up and went around the block and turned up a one-way street and there was a policeman there and he stopped us and we made a "U" turn. We got out and run and he caught him but not me. Later they picked me up.

Q. You are talking to the ceiling. I don't think the jury can hear you. Talk to the jury.

MR. BILL: At this time I object to this testimony.

MR. McDONOUGH: I will withdraw the question.

MR. BILL: I mean the whole line of testimony unless the purpose is stated so that the Court and Jury and I will know what the claim is here.

MR. McDONOUGH: The purpose, Your Honor, I might state, is that all these actions will be tied up with his commitment and confinement to mental institutions and what he is referring to now. He did go to a mental institution, the exhibit of which has just been offered here and marked as an exhibit. It will bear on his mental condition.

THE COURT: That is the reason it is offered?

MR. BILL: That is all I want.

THE COURT: Go ahead. Do you want the last question?

MR. McDONOUGH: Yes.

THE COURT: Read the question and answer, Mr. MacGlashan.

(The reporter read the last two questions and answers.)

Q. Now, the jury is over here. Go ahead. A. Then I was brought into a Court in the City of Brockton to face a motor vehicle charge and I pleaded not guilty and the fellow's mother I was with told me to waive examination to the Superior Court, that I didn't know what that meant at the time. So I did that and we was brought into Plymouth, Massachusetts and I pleaded not guilty and I think I went up for a year, and shortly after I pleaded guilty and the Court hired two psychiatrists to examine me and found me to be committed to Bridgewater State Hospital for observation from the Court, and I stood there about thirty or

thirty-eight days or so and I was committed to the Wrentham State School for Boys where there is a State mental institution there for weak minds and upset minds.

Q. After you were committed to Bridgewater you were then committed to Wrentham State School for Boys, a mental institution? A. Yes, sir.

Q. How long were you there? A. There about a year or a year and a half, I guess, I don't know but it was in that time.

Q. Were you confined there for a year or a year and a half? A. No, I wasn't.

Q. Well, tell how long you were there or what happened? A. I think I was there about a month or two and I took off from the place, and shortly after they picked me up at my home where it was in Fall River, Mass. and brought me back, and I think I was there about three or four more months, and I took off with about three or four other fellows from the place and they picked me up and brought me back, and I think the third time I was there about six or seven months, and I took off with three or four other fellows - different fellows - and they picked me up and brought me back, and the last time they warned me if I should take off from the place anymore I am to go to Bridgewater where I should have been in the first place.

Q. That is the hospital for the criminally insane?
A. Yes, At Bridgewater, Mass.

Q. What happened - did you return there? A. No, I didn't I took off again and kept going.

Q. And that was in what year? A. That was in 1941.

Q. And have you ever been picked up in an effort to be returned there? A. No, I haven't.

Q. Have the authorities known where you were since then? A. I don't know if they knew, but I left from there to come to Hartford.

Q. I mean, have you been in the custody of the law since you escaped the four times? A. Yes, I have been in the custody of the law about four times since then.

Q. The last place was the Connecticut State Prison?
A. Yes, sir.

Q. Did you tell the prison authorities or any other institutions that you had been at the Wrentham State School for Boys and threatened with Bridgewater?

A. Well, the Superior Court here in Hartford knew I was in the State Hospital because it was in the record, because it was brought out here in the trial the first time I was brought into court - the first arrest I made in Connecticut back in 1944, and it was stated - Mr. Alcorn was here then - and he knew I was in an insane asylum.

Q. Was that stated to the Court in your hearing?
A. Yes, sir, they have a record of that.

Q. Now, do you recall, Culombe, when you were a boy a bridge known as Slate Ferry Bridge? A. Yes, I do. There is two bridges in Fall River, Mass. going across a river known as the Taunton River in Fall River - there is two bridges going across - one of them a new bridge and the other one down the other end known as the Slate Ferry Bridge.

Q. Yes. A. And I know that bridge pretty well - I used to swim around there.

Q. Did something happen to you on that bridge when you were twelve or thirteen years old? A. Yes, we used to dive off that bridge, and on the top of the bridge there is railroad tracks and below the bridge there is automobiles, and underneath there is boats going through, and I think the bridge was there in two sections, and at the time we

used to dive off the bridge there, and the bridge is about ninety feet high, so one day there was a bunch of kids I used to be with and they dared me to go up to the top and dive off that bridge. I looked from the top where the railroad tracks is down and I felt kind of dizzy, and it looked awful low at that down to the bottom of the water. They finally called me chicken and a lot of other things but I finally dove off that bridge.

Q. What happened? A. Then I fractured my head on the stones down below that bridge.

Q. Were you able to get up and walk away, or what happened? A. Well, I didn't then. They had what they call a raft or something in the water, and I laid there for a while, and I think - I don't know how long I was there - and my mother and father was going across the bridge and they saw me, and I think my father came down to help me up, and then from there they took me to the hospital.

Q. Now, have you ever injured your head during the time you were a boy besides that occasion and the baseball incident when you were knocked unconscious? A. Well, there was another time going to school when some boys were on top of the railroad bridge throwing stones. I have been hit on the head several times with the stones.

Q. What happened as a result of that? A. They took me to the doctor and the hospital to take x-rays, and then my father went to the police station to make a complaint about it.

Q. Do you remember when you were a little boy having a doctor come to the house for you? A. Well, as far as I remember, we used to have the family doctor.

Q. What was his name A. Dr. Lewis.

Q. Is he dead or alive? A. I wouldn't know.

MR. McDONOUGH: Your witness.

THE COURT: Would you like an opportunity to examine the record?

MR. BILL: Yes, Your Honor.

THE COURT: All right. You may escort the accused from the courtroom. You may step down.

The jury may ~~retire~~ to their room and the alternates to theirs.

(Jury retired at 3:05 P.M.)

THE COURT: Let me know when you are ready, Mr. Bill.

MR. BILL: Yes, than' you, Your Honor.

THE COURT: Short recess.

(Recess at 3:05 P.M.)

* * * * *

VLADIMIR THEODORE LIEBERSON, a witness on behalf of the accused Culombe, being first duly sworn by Mr. Egan, testified as follows:

BY MR. EGAN:

Q. State your full name and address, please, for the record? A. Doctor Vladimir Theodore Lieberson.

Q. Where do you live? A. Veterans' Hospital, Rocky Hill, Connecticut.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Now, Doctor, I am going to move back here so that I will make sure that the jury hears you as well as I do. Doctor, what is your profession? A. I am a Medical Doctor and I am doing electro encephalography.

Q. That is a special field of medicine? A. That is right.

Q. What is that field? A. It is a field which is called applied neuro physiology and clinical neuro physiology, and in particular, what we do is to record the electrical activities of the brain.

Q. Is that what is called by the lay person a brain wave? A. That is right.

Q. Examination. Now, what is your medical education and hospital background, Doctor? A. I finished medical school in Paris in 1936.

Q. Paris? A. Yes, sir, Paris, France, and I also had been studying science and have a Ph. D from the University of Montreal in 1950, I have been doing electro encephalography since 1936 - brain tests - brain wave tests.

Q. What hospitals have you been or are connected with? A. Well, in this country, Mount Sinai, New York first, then the Institute of Living in Hartford, the Hartford Hospital, Saint Francis Hospital, Newington Home for Crippled Children, State Veterans' Hospital, Northampton, the Veterans' Hospital in Springfield, and Mercy Hospital.

Q. Now, Doctor, looking down here at the end of my table to your left, do you recognize this man as having been examined by you? A. I do.

Q. Arthur Culombe? A. Yes.

Q. Do you recognize this man, Doctor? A. I do.

Q. In March of this year did you, under an appointment by this Court, examine this man for the so-called brain wave test? A. I did.

Q. When and where, Doctor? A. At Saint Francis Hospital on March 26, 1957.

Q. Now, will you tell His Honor and the jury of your examination and the results and conclusions that you reached? A. Well, during this examination we put sixteen

electrodes on the head of Mr. Culombe and we ran the record on the arresting conditions during sleep. We asked him to hyper ventilate - to increase his respiration, which is one of the phases of the tests, we also repeated all these tests after giving him some sugar water which may modify the brain wave, and after all this was done the conclusion was that the record was not normal. There were minor but consistent abnormalities, deviant patterns, which consisted of unusual single sluggish waves which suggest that there is some disfunction in this brain. However, there was no evidence of gross pathology, there was no evidence of tumor, no evidence of hemorrhage and no evidence of an epileptic disorder.

Now, following this examination I wrote the report - would you like me to read?

Q. Yes, I have it. A. I will read the record: "This record does not show any gross abnormality. There is no specific or focal pattern. There is mild non-specific episodic deviant pattern which might be related to personality disturbance. This finding might be reinvestigated."

Q. So you did find some affirmative findings, did you not? A. Yes, that is right.

MR. McDONOUGH: That is all.

THE COURT: Cross examine, Mr. Bill?

CROSS EXAMINATION BY MR. BILL:

Q. Is the prime reason for this test, Doctor, to determine whether there are symptoms of a tumor or of epilepsy - that is generally the reason for the test, isn't it?

A. No, sir.

Q. Can you determine the existence of a tumor or tendancy of a tumor from this test? A. I can suspect it, yes, sir.

Q. You can suspect it. And how about epilepsy?
A. The same thing.

Q. And are all these symptoms from which you make your conclusion - they are suspicions only - suspects only?
A. It is a suspicion of tumor but it isn't a suspicion of an abnormality.

Q. Well, A. In other words - may I complete?

Q. I am sorry. A. What we find is an abnormal pattern, the evidence of gross pathology, but we cannot state whether this is definitely a hemorrhage or a tumor in certain cases, but there was a suspicion of abnormality. Abnormality is there.

Q. And was that gross? A. In this case, no.

MR. BILL: That is all.

REDIRECT EXAMINATION BY MR. McDONOUGH

Q. But there is abnormality there? A. There is abnormality there.

Q. And I think you closed your report of your finding that it may be reinvestigated because of what you did find?
A. That is right.

MR. McDONOUGH: That is all. May the witness be excused?

MR. BILL: Yes.

THE COURT: He may be excused.

(Witness excused.)

ROBERT C. DOHERTY, a witness on behalf of the accused Culombe, being first duly sworn by Mr. Egan, testifed as follows:

BY MR. EGAN:

Q. State your full name and address for the record,

please. A. Robert C. Doherty, M.D., Hartford, Connecicut.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Doctor, on the application of myself, as attorney for Culombe, were you appointed as the psychiarist to assist in the defense of Culombe? A. I was.

Q. And make an examination of Culombe as a phychiatrist? A. Yes, sir.

MR. BILL: May I have that last question and answer - the last two?

THE COURT: Yes, read it, Mr. MacGlashan.

(The reporter read the last two questions and answers.)

Q. Doctor, will you tell us your educational and medical and hospital background in connection with this? A. I am a graduate of the University of Vermont Medical College, 1947, received training at Saint Francis Hospital as an intern, residency training in psychiatry at Vermont State Hospital, Saint Elizabeth Hospital, Washington, D.C., Institute of Living in Hartford, Connecticut. I served as Chief of Psychiatry for the Air Force for a period of five years, and at the present time I am in private practice in Hartford and on the staff of Saint Francis Hospital, McCook Hospital and am Psychiatric Consultant at Wethersfield State Prison.

Q. Doctor, in accordance with your appointment, did you undertake the examination of Arthur Culombe, the defendant in this case? A. I did.

Q. When did you first see him? A. I first examined him at the Seyms Street Jail, I believe, on March 17, 1957.

Q. How many times have you visited and examined Culombe? A. On three different occasions.

Q. How much time did you spend with Culombe?
A. Approximately six to seven hours.

Q. Did you obtain a history of Culombe? A. I did.

Q. From whom or where did you obtain a history of Culombe? A. I obtained a history from the accused himself, I obtained a history and reviewed the records of his previous hospitalizations; I spent approximately an hour to an hour and a half with his mother and his aunt to fill out the history, as well as reviewing the E.E.G. report - the brain wave report - and the psychological tests.

Q. Doctor, as a result of your review of this case and your examination of the defendant Culombe, will you tell the Court and the jury what your opinions were and what conclusions you arrived at? Tell them what your examination was. In other words, in your own way tell us what you did. A. My examination was a psychiatric examination to rule in or out a psychiatric process. The psychiatric examination also included obtaining an impression of his intelligence, which I found to be very low. My professional opinion is that Mr. Culombe is feeble minded - an adult with mental deficiency without psychoses and fits into the moron classification.

Q. What mental age did you find him to have, in your opinion? A. Between nine and nine and a half years.

Q. And his present age is what? A. Thirty-three.

Q. What is the normal I.Q. of an individual?
A. Well, the normal I.Q. runs between ninety to one hundred and ten.

Q. And by I.Q. you mean Intelligence Quota?
A. That is right.

Q. And what did you place the Intelligence Quota on Culombe at? A. At sixty.

Q. Sixty? A. Yes, sir.

Q. Did you find out whether he could read or write? A. It was my impression he was unable to read and write anything besides his name, which he could print, but misspelled at times.

Q. What conclusion did you come to regarding his judgment? A. In my opinion his judgment was remarkedly impaired.

Q. Did you recommend any further tests to be given Culombe? A. Yes, I recommended a battery of valid psychological tests to determine his true mental age and his Intelligence Quotient.

Q. And what was that test and who was it given by? A. The test was performed - I believe the Court appointed as psychologist Mr. Ibelle from Norwich State Hospital. The tests performed were the Stanford-Binet Intelligence Scale and the Wechsler-Bellevue Intelligence Scale.

Q. And what relation does the psychologist have to the field of psychiatry? A. It has a very important relationship in that a clinical psychologist is an expert on psychology tests being given - as his intelligence tests - and gives a very valid picture and true picture of a man's basic intelligence. They also perform a personality test such as the Rorschach Ink Blot test, which gives a picture of the man's underlying personality and emotional structure. They are used as a member of a psychiatric team in forming a more valid opinion of what is going on in the individual.

Q. Now, Doctor, I had asked you in conference about matters relative to the age of a person at sixteen, - do you recall that? Let us go into that field with defendant for the Court and jury. A. In the matter of intelligence there is an established scientific fact that the top chronological age for the learning processes is between fifteen and six-

teen, and we interpret these tests to determine the intelligence quotient by taking the chronological age of an individual at fifteen or sixteen, depending on what tests are used. In other words, even though an individual is thirty or forty, for testing purposes the chronological age used in the formula to determine the intelligence is at the top at fifteen.

Q. And why is that age of fifteen used, regardless of the age of the person? A. Because, through testing they have found that the learning process, the inate learning process stops formulating completely at that age, even though a person can learn from experience beyond that age, the purposes of the test are set up to test the basic inate intelligence and not in experience.

Q. Well, Doctor, in summing up everything, what were your conclusions as to this individual, Culombe, insofar as his mental status is concerned? A. It was my opinion he was a moron with a mental age of between nine and nine and a half; he has an Intelligence Quotient of sixty, and his actions fitted into that psychiatric classification.

Q. And about his judgment? A. His judgment is impaired.

Q. How about his capacity in his mind - properly reasoning things out in a normal way? A. An individual of this intelligence acts purely under stress as to reasoning power. Even though not psychotic, he is of adult age with a child's mind.

MR. McDONOUGH: Thank you very much, Doctor..

THE COURT: Cross examination, Mr. Bill?

CROSS EXAMINATION BY MR. BILL:

Q. Doctor, did he comprehend the questions that you asked? A. Yes, and no.

Q. Well, you please explain what you mean by that?
A. He comprehended the reason that I was talking to him and examining him but some of the questions that I asked him to test his intelligence, he showed impaired memory and impair fund of general information.

Q. As a matter of fact he had a good memory, didn't he? A. For certain things he had an excellent memory, mostly pertaining to his personal affairs, but as to memory of general information he had a - I would say impaired.

Q. Did you inquire of him as to his occupation and employment? A. I did.

Q. And did you learn from him that he had been steadily employed for the last three and a half years, at least? A. I did.

Q. Did you learn from him that he was making anywhere from seventy to seventy-six dollars a week?
A. He told me eighty-five.

Q. Eighty-five? A. Yes.

Q. You learned that? Did he tell you that he had maintained a wife and two small children and a home?
A. He did.

Q. Did that have any- was that of any importance to you in coming to your conclusion? A. It was.

Q. And what importance? A. The importance that he was able to make a somewhat adequate occupational adjustment over the last three years.

MR. BILL: I think that's all.

THE COURT: Anything further, Mr. McDonough?

MR. McDONOUGH: Yes, Your Honor.

REDIRECT EXAMINATION BY MR. McDONOUGH:

Q. What type of employment did he tell you that he was engaged in, Doctor? A. I believe for the last three years or so he was in - working as a platform hand, doing physical labor, putting packages and things on trucks and unloading trucks.

Q. You would not say that that required any mental effort, would you, that kind of work? A. Well, from my experience I feel that it takes a man of low mentality to hold that type of job over a period of three years.

Q. Now, Doctor, going back to the question that you answered before, what is your opinion of his mind and capacity to reason out and understand things?

A. Very childlike.

Q. In other words, would that apply to this question, his capacity of mind to reason and enable him to judge of the nature and character and consequences of his acts, would you term it very childlike? A. I would.

MR. McDONOUGH: That's all, Doctor. Thank you.

MR. BILL: Just a minute, please.

RECROSS EXAMINATION BY MR. BILL:

Q. You say that he was not psychotic? A. That is correct.

Q. And what does that mean, Doctor? A. Psychosis is a mental classification of severe mental illness connected with a complete break with reality.

Q. That is insanity, isn't it? A. That is correct.

Q. So if he is not psychotic he is not insane, is that correct? A. That is correct.

MR. BILL: Thank you.

MR. McDONOUGH: Thank you, Doctor. That is all.

Will you need the doctor any more, Mr. Bill?

MR. BILL: No.

MR. McDONOUGH: You are excused, Doctor. Mr. Ibelle.

BERTRAM PATTERSON IBELLE, a witness called by the accused Culombe, having been sworn by Mr. Egan, testified as follows:

THE ASSISTANT CLERK:

Q. Will you state your first name and address, please?
A. Bertram Patterson Ibelle, Elmwood.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Ibelle, will you please keep your voice up? What is your profession? A. I am a psychologist, sir.

Q. What is a psychologist? A. A psychologist is a person who, in clinical psychology, the branch that I am working in, studies the thinking, the thought organization, and so forth.

Q. The what? A. The thinking of an individual.

THE COURT: Keep your voice up so that they can all hear you.

Q. Now, tell us your educational background, and hospital, or staff or clinical connections in this field, Doctor?

A. I received my Bachelor's Degree in 1950, in psychology, from Dartmouth College. My Master's Degree from the University of Connecticut in 1952. I completed the academic requirements for the doctorate at the University of Connecticut in 1952. I completed the academic requirements for the doctorate at the University of Connecticut, about two years ago. I am presently engaged in pilot research leading to the degree of Doctor of Philosophy. Interned at Norwich State Hospital, in clinical psychology for a year and a half and I was chief staff psychologist at Hart-

ford Hospital for three years. Presently I am senior clinical psychologist at Norwich State Hospital. I have been a laboratory instructor in psychology at the Hartford branch of the University of Connecticut. I have been a lecturer in psychology at Springfield College.

Q. Mr. Ibelle, were you appointed by this Court to represent both the State and the defense in an examination of the defendant Culombe? A. Yes, sir.

Q. In accordance with that order did you make an examination of Culombe? A. I did, sir.

Q. Now, before making the examination of Culombe did you receive a history from anyone? A. Not from anyone. The only thing I received was a request to examine Mr. Culombe, and some mention was made of the question of his intelligence.

Q. In other words, you got nothing about any other hospitals to start you off, what they had found, did you? A. No, sir.

Q. You started cold? A. That's right.

Q. Is that right? A. Yes.

Q. And where did you examine him? Tell us the type, the manner of your examination and your conclusions, and you may refer to your notes. A. I saw Mr. Culombe for the first time on March 30th, 1957 at the Hartford County Jail. I saw him again on April 1st, 1957. I administered two standard intelligence tests of the type that are given individually in a face to face contact. The first of these was the Stanford-Binet intelligence scale, form L. The second was the Wechsler-Bellevue Intelligence Scale, form I. As additional tests, just to help confirm the results of the first two, I did a good enough analysis of Mr. Culombe's figure drawing and I administered a Rorschach ink block test.

On the basis of this examination I believe that Mr. Culombe is of defective intelligence, he can best be classified in the middle grade moron range or, according to the present diagnostic classificatons moderately defective.

Q. How did you find his behavior? A. I felt it was quite child like.

Q. Child like? A. Yes, sir.

Q. Now, was he informed by you that you were not making this examination as a person committed to his defense - in other words, that you were assisting the defense? Did you inform him of your status? A. Yes, sir, I did.

Q. That you were disinterested as a court appointed individual? A. Yes, sir.

Q. Representing the State and the defense?
A. Yes, sir.

Q. And what was his reaction to that? A. He continued to feel that in some way I was a protector of his, and on several occasions thanked me for all I was doing for him, and so forth.

Q. And did he understand at that time that the result of your examination might be against him? A. I made this point with him several times. I am not sure whether he clearly understood that or not.

Q. But he looked upon you as a sort of a protector?
A. Yes, sir.

Q. What did you find his intelligence to be?
A. As I said before, sir, in the defective range.

Q. Mildly or grossly? A. Mildly - moderately. I am sorry.

Q. What? A. Moderately.

Q. How did you find his thinking? A. Very stere-

otyped, not at all profound, very limited ability to make any kind of abstractions.

Q. How did you find his vocabulary? A. His vocabulary perhaps was one of his strongest points. That still was low.

Q. Low? Would you use the word limited?
A. Limited, yes.

Q. How about his literacy? What did you find that to be? A. I felt that he was illiterate, sir.

Q. Now, the Weschler-Bellevue test that you gave him - A. Yes, sir.

Q. What rating did he acquire in that? A. I believe his full scale intelligence quotient there was 64.

Q. And what is the normal intelligent quotient?
A. 90 to 110, sir.

Q. Now, in the Weschler-Bellevue test where he achieved a rating of 64 - A. Yes, sir.

Q. According to the norms, what score is this in accordance with the percentage of our general population?
A. He would be in the lowest two percent of the general population.

Q. Lowest? That two percent of all the population on that score? A. That's right.

Q. That he was in? A. At that score or below.

Q. Now what did the Rorschach test show?
A. It showed stereotyped thinking, very dully plodding kind of thinking, weak integrative ability.

Q. What do you mean by that? A. Again I would like to fall back on the - the lack of profoundity in his thinking, the lack of real organization. He had no percept in

response to these cards that were in any way unique or really original, showing any great amount of organization.

Q. How did you find his mental equipment to be in relation to coping with the normal exigencies of life?

A. I thought that he was not able to cope with the normal problems of every day existence.

Q. Because of his mental ability, is that right?

A. Yes, sir.

Q. In your summary what type of minded individual did you find him to be? A. May I read my summary?

Q. Yes, you may. A. All testing is consistent in indicating that this is clearly a feeble minded individual whose adjustment, both personal and social could be at best marginal. His performance is that of a middle grade moron and he can be properly labeled moderately defective. In addition to being saddled with deficient mental equipment with which he must try to cope with life's problems, Mr. Culombe is also possessed of that character defect so frequently found in individuals of low intellectual caliber. He is enormously suggestable. Thus, lacking in the capacity for sufficient critical judgment his manner of thinking, his pattern of living and his way of behaving can all easily be influenced by those persons closest to him. When the influences are benign he gets along. When the opposite obtains he is in trouble.

Q. Mr. Ibelle, what you have - you furnished me a copy of what you - your notes? A. Yes, sir.

Q. Sometime ago, isn't that correct? A. Yes, sir.

Q. You also furnished them to the State's Attorney, did you not? An exact copy of what you furnished to me?

A. That's right.

Q. So that both the State and myself have had the benefit of your examination and conclusions? A. Yes, sir.

MR. McDONOUGH: Thank you, that's all, Mr. Ibelle.

THE COURT: Mr. Bill?

MR. BILL: No questions.

THE COURT: You may step down, Mr. Ibelle.

MR. McDONOUGH: Just a moment, please?

BY MR. McDONOUGH:

Q. I show you this, Mr. Ibelle, and ask you if that is a copy of the report that you referred to and that you gave to the State's Attorney and to myself? A. This is a copy of one that I gave to you, this is not the original.

Q. Did you give the State's Attorney the same? A. Yes, sir.

MR. McDONOUGH: May it be marked for identification, Your Honor.

THE COURT: It would be 8 for identification, in case No. 21,666.

MR. McDONOUGH: I think that I will offer it as a full exhibit.

MR. BILL: No objection.

THE COURT: May be Exhibit 8.

(Copy of report of Mr. Ibelle, received in evidence and marked "Defendant Culombe's Exhibit 8").

MR. McDONOUGH: Mr. Lynch.

WILLIAM S. LYNCH, a witness called by the accused Culombe, having been sworn by Mr. Egan, testified as follows:

THE ASSISTANT CLERK: Will you state your full name and address to the Court, please? A. William S. Lynch, Fall River, Massachusetts.

Q. Will you state your full name and address to the Court, please? A. William S. Lynch, Fall River, Massachusetts.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Lynch, what is your occupation?
A. Superintendent of Schools.

Q. Of the public schools in Fall River, Massachusetts?
A. Of public schools in Fall River, Massachusetts

Q. And you have been for how long? A. This is my twelfth year.

Q. Mr. Lynch, by subpoena have you come to this Court and brought with you the school and attendance records of Arthur Culombe? A. Yes, sir.

Q. And were those records and are those records under your jurisdiction and kept in your custody?
A. Yes, sir.

Q. Have you them with you? A. Yes, sir.

Q. May I see them?

Q. Showing the witness a file containing four cards and two sheets of paper, I ask you what it is, Mr. Lynch?
A. These are records - these are report cards of Bertram Culombe. This is a school clinic record. This is a teacher's report in a class for mental defectives. This is a statement of attitudes and other characteristics of Bertram Culombe made - by whom I don't know, since it is old, but is a form that was in use some years ago in our schools. This is a school clinic record of the Third School Age of Bertram Culombe.

Q. Are you acquainted with that type of record in your school system? A. Yes, sir, they have changed a little as years have gone by, but they are of the sort that are still under use.

Q. And you are able to interpret such records?
A. I believe so.

Q. Would you explain to us those records you have just discussed? A. This report card begins with 1931 and runs through a matter of nine years to 1939 - the report cards are 1931 to 1939, and naturally these records would be dated in that period.

MR. McDONOUGH: I offer it in evidence, Your Honor.

THE COURT: Is there objection?

MR. BILL: No objection.

THE COURT: It may be marked exhibit 9 in case number 21,666.

(Folder containing school records of Culombe marked Defendant's Exhibit 9 in case number 21,666.)

Q. Now, Mr. Lynch, is it possible for you to interpret from these records - you said you can? A. I believe I can.

Q. I will show you a white card that is numbered 97015 and ask you what it is and what it shows?
A. This would be what we call an old cumulative record card we would keep the progress and the transfers on of each and everyone of our students. It is less elaborate than the ones we use today.

Q. Just go right through it, please. A. This particular card shows that George Culombe, who was born on February 28, 1924, the son of George Culombe, a laborer, and who resided at first at 137 Brownell Street -

MR. BILL: I object to this - George Culombe? I don't understand.

THE WITNESS: I said son of George Culombe.

THE COURT: You did say George. Do you want to correct it for the record?

THE WITNESS: I am sorry. This is the card of Bertram Culombe and I was deciphering the name of the parent - George -

THE COURT: As long as you have corrected it go ahead.

THE WITNESS: Then on the back of this card there is the statement that shows that he entered St. Joseph's School in 1931, September, and his age at that time was seven years and six months; that he did poorly in reading, language, spelling, writing, arithmetic, music, drawing; that he was present one hundred and twenty-five days during the year; that his health was fair. It shows too that the next year he started in St. Joseph's but transferred to one of the public schools, the Borden School, where he was placed in an ungraded class in November, 1932. He was placed in a special class - he was then eight years and six months. He did poorly in all the subjects mentioned. He continued at the Danforth School where special classes were housed.

Q. What were the special classes? A. They are the classes for slow learners or mentally retarded children.

Q. Go ahead. A. He spent the school year of 1933 at the Danforth School, again doing poorly in all subjects. In 1934 a similar record. In 1935 instead of P's and X's, he had D's.

Q. What are P's and X's and D's? A. That would be very poor and X would be poorer than P and D would be kind of a little above that.

Q. Still poor? A. Yes, and that continued in 1936 and 1937. In that year - in the next year 1939 those classes were moved to the Ruggles School and the record of D's continued.

Q. Is that a special school? A. That is our current school for slow learning boys.

Q. Go ahead. A. That completes that card, sir.

Q. We have a general one and you won't have to go through them, that is, one by one, but have you explained what P's and the D's and what the X's mean, and refer to the school? A. This is a card which is pretty much a copy of the other card using a different set of files, so that the achievement record which I read from the other card is the same on this. P's mean poor, of course, X's mean extremely poor and D's is a cut above P - it is still poor, but roughly equivalent to barely passing. Is that what you want, sir?

Q. Yes, Mr. Lynch, thank you. Here is a large white card - "Teacher's Report Card for People in Class for Mental Defectives". Can you explain that card and interpret it?

A. This is a card on which the teacher in what we call the special classes keeps various records about the child. There is the question at the beginning of the identification, birth, parents, date of entrance. Then there is here the academic work, report of the progress in each subject, and it says there: first year, grade one, poor work in all subjects. Second year, grade one - poor work in all subjects; third year, grade one - poor work in all subjects; fourth year, grade one - was at Lyman School that year and returned March, 1939. There is another note - sent back to Lyman, February, 1940 for larceny.

On the other side of the academic work there is a report on manual work with report of progress. It says for the first year, poor; second year, poor; third year, poor; fourth year, fair. There are no other blanks filled in on that card.

Q. I show you this sheet and ask you what it is?

A. This is a sheet, the original source of which I am not sure. It is, however, a sheet in which is the character traits and they are listed as - with adjectives - various adjectives - to describe the traits - those are listed and are underlined for that trait or that characteristic which more

nearly describes the trait. It says, for instance: "Address and manner", and under that are a number of descriptive phrases - repellent, bearable, makes fair impression; likable, very pleasant. Underlined is "bearable".

The next is "Attitude". It goes on "uninterested, willing to be interested, attentively interested, enthusiastically interested", and underlined is "[illegible]nterested".

Q. The underlining means what? A. That means that somebody on the staff, probably the teacher, at sometime - this is not dated - was asked to submit this sheet filled out about this boy. It is identified -

Q. Then the underlining means what? A. That in the opinion of some of the staff, these were the expressions which more nearly identified the traits listed.

Q. Go onto the next. A. Then it says "Character - dishonest, open to temptation, fairly reliable, generally trustworthy, absolutely trustworthy" and underlined is "dishonest".

Q. Go onto the next, please. A. "Cooperative ability - obstructive to others; frequently cannot work with others; cooperates moderately; can work with others; goes out of his way to assist others" and underlined is "frequently cannot work with others".

Q. The next. A. "Disposition - grouchy or surly, tempermentally bad natured, fairly good natured, generally pleasing, very pleasant, cheerful and well liked". Underlined is "tempermentally bad natured". The next one is "Industriousness - lazy, does enough to get by, fairly good worker, persistent on assigned work, hard worker, does extra work". Underlined is "lazy".

"Initiative - must be told, depends greatly on others, moderately aggressive, self starter on original work". Underscored is "must be told".

The next one is "judgement - has poor sense of values, jumps at conclusions too quickly, tries to reason things out, has common sense, has unusually good judgment". Underlined is "has poor sense of values".

"Leadership - is a follower, leads others with difficulty, influences others fairly well, can organize and direct others, leads others well". Underlined is "is a follower".

"Native capacity - dull, learns after many repetitions, learns on repetition, learns fairly quickly, bright, grasps ideas on statement, very bright, anticipates new ideas". Underlined is "dull".

There is a marginal note that says "This boy was sent to Lyman School - 1938 - returned in 1939 much improved. Willing to do as much as possible but accomplishes little."

Q. Now, Mr. Lynch, I show you this last white sheet headed, "Department of Mental Diseases - School Clinic Record - Correlation of Chronological Mental and School Age." Name - Culombe, Bertrand - April 13, 1936 - number 2433 - and there is a chart with rises and levels there. Can you explain that to the Court and jury? A. I think so. This is a form which the schools of Massachusetts use. The form itself is a State form and we use this form in part because the schools to which we refer are what we call our special schools and are in part State paid for and in order to receive reimbursement we have to meet certain standards, and so forth so we use many State forms.

This particular form reveals that on April 13, 1936 Bertram Culombe was twelve years, two month old. That was his chronological age. At that time his mental age was six years and eight months. It reveals further that for the level of achievement at his chronological age he should have been in the seventh grade. The sheet indicates that he was reading on a level of kindergarten; that his arithmetic was on the level of the first grade; his spelling on the level

of kindergarten, his writing and language on the level of first grade. The sheet reveals an I.Q. of fifty-five.

Q. Now, I show you this card, which is the final portion of that exhibit and ask you what that is? A. This is a card which is a psychologist's report. In placing students into the so-called special schools, we are required by law to have a psychologist's report. At the time this report was made, the State was doing the psychological work, and the examining physician, whose name is here is - I know him by reputation and by hearsay and by other records to have been a State Psychologist. This card, of course, was filled out before I was Superintendent of Schools in Fall River, but the name of E. S. B. Woodward, M.D., is a familiar one in our records, and I have known through other people this Doctor Woodward.

This is the report on Bertram Culombe who was at that time at the age of twelve years and two months; place of birth, Fall River, Mass., mental age - this is very much the same as this previous one - mental age six years, eight months, whose intelligence quotient was fifty-five.

Q. What was his actual age? A. At that time twelve years and two months. These two were apparently made at the same time. It was probably part of this record. He was five and a half years retarded schoolwise. The report goes on to say under recommendations: "This boy has been in special class for about three years. At his present mental level we could expect him to be doing some work in grade one but he does very little. He has not learned to read and is more than four years retarded. If he remains in public school he should also remain in special class where he will have some personal coaching and be able to do as much as he can, especially in manual and industrial training. With this degree of retardation he urgently needs institution training and protection. This is especially to enable him to get work after he leaves school. It will be difficult for him to keep a job and adjust well in the community. He is

rather peculiar, might be described as nervous; has defective speech, and possibly defective vision. Needs denistry. He is immature for his age; looks dirty and neglected; in fact, we found him in rather wretched condition, and one is very sorry for him. He is apparently well aware of his defects. The home conditions are not favorable. The institution training would be a kindness and a great benefit to him. Social supervision."

Q. That completes the file, Mr. Lynch? A. Yes, sir.

MR. McDONOUGH: That is all.

MR. BILL: No questions.

MR. McDONOUGH: You are leaving for Europe next week?

THE WITNESS: For South America.

MR. McDONOUGH: Have a nice trip. You will have to leave these school records here and they will be returned.

THE COURT: We will stop here, Mr. McDonough. You may escort the accused from the courtroom.

(Accused escorted from the courtroom at 11:30)

THE COURT: The alternates may retire to their room and the jury to theirs.

Short recess, Sheriff.

(Recess was taken at 11:30 A.M.)

JUNE 21, 1957. 11:50 A.M.

THE COURT: You may bring up the accused, Sheriff.

(Accused present)

THE COURT: Now may I have the alternates and the jury, please?

(Jury and alternates present)

THE COURT: You may proceed.

MR. McDONOUGH: Doctor Hraba.

JOHN HRABA, a witness called by the accused Culombe, having been sworn by Mr. Coburn, testified as follows:

BY THE ASSISTANT CLERK:

Q. Your full name? A. John Hraba, M.D.

Q. And your address? A. Wrentham State School, Wrentham, Massachusetts.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Doctor Hraba, you are a practicing physician in the State of Massachusetts? A. I am.

Q. And you are connected with the Wrentham State School? A. I am assistant superintendent of Wrentham State School.

Q. What type of school is that? A. A school for the mentally deficient.

Q. Doctor, did you bring, by virtue of a subpoena, with you the records kept in the due course of business of that institution regarding Bertram Arthur Culombe?
A. I did.

Q. May I see them Doctor, please? And what year or years does that cover? A. This covers the years 1941 - October 29th, 1941, to May 6th, 1942.

Q. Thank you, Doctor, and this record contains what, Doctor? Will you look through it without reading anything from it? A. This record contains information in regard to his admission, his examination, his behavior and his progress during his stay at Wrentham State School.

Q. And his treatment? A. And his treatment.

Q. And the conclusions as to his mental status?
A. To a certain degree.

Q. And it shows staff reports and meetings?
A. It does.

MR. McDONOUGH: I offer it in evidence, Your Honor.

THE COURT: Is there any objection, Mr. Bill?

MR. BILL: May I see it?

THE COURT: Surely.

MR. BILL: No objection.

MR. McDONOUGH: May it be marked, Your Honor.

THE COURT: May be marked Exhibit 10 in No. 21,666.

(Record of Wrentham State School received in evidence and marked "Defendant Culombe's Exhibit 10")

Q. Showing the witness Defendant Culombe's Exhibit 10 I refer to a picture, a photograph on the inside of the folder. Is that what purports to be a photograph of Culombe?
A. It does.

Q. Have you other records there, Doctor, relative to Culombe? A. This is the record of the school tests.

Q. Record sheet for the school tests? What is the other? A. And a report of the Department of Mental Health of the Commonwealth of Massachusetts.

Q. And what else have you there? A. I have further some summaries on Bertram Culombe and some correspondence in regards to him,

Q. And this is the complete - makes up the complete file? A. Makes up the complete record.

Q. May I have that folder? A. Yes.

Q. So the yellow empty folder that I now have in my

hand makes up the record sheet for school tests, the report to the Department of Mental Health and the summary of the psychiatric examination of Culombe? A. Yes, sir.

Q. Is that correct, Doctor? A. Yes, sir.

Q. And correspondence relative to it? A. Yes, sir.

MR. McDONOUGH: I will place them all in one envelope, noted file No. 1940-49, up in the righthand corner No. 5536, and offer it in evidence as a full exhibit.

MR. BILL: No objection.

MR. McDONOUGH: May it be marked, Your Honor?

THE COURT: May be marked Exhibit 11, in No. 21,666.

(Folder containing data from Wrentham State School received in evidence and marked "Defendant Culombe's Exhibit 11")

MR. BILL: What do you call that, Mr. McDonough?

MR. McDONOUGH: This is marked "Psychiatric file" - let's leave it that way.

Q. Doctor, are you acquainted with a Miss Ruth Prouty? A. I am.

Q. Who is Miss Prouty? A. Miss Prouty is our official psychologist of the institution.

Q. Do you know how long she has been connected with the institution? A. I believe that she has a service record of thirty-five years in our institution.

Q. And that institution is a state maintained institution? A. It is.

Q. For mental defectives? A. It is.

MR. McDONOUGH: Thank you, Doctor. That's all.

THE COURT: Any cross examination, Mr. Bill?

MR. BILL: No, Your Honor.

THE COURT: You may step down, Doctor.

MR. McDONOUGH: Doctor, you are excused, and thank you very much. Mrs. Dion.

JULIA DION, a witness called by the accused Culombe, having been sworn by Mr. Coburn, testified as follows:

BY THE ASSISTANT CLERK:

Q. Your name? A. Julia Dion.

Q. Address? A. 48 Linden Street, Fall River Massachusetts.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mrs. Dion, will you try to keep your voice up so that all the jury can hear you. Mrs. Dion, are you related to Arthur Culombe, the defendant in this case?
A. Yes, sir.

Q. And what is your relationship. A. An aunt through marriage.

Q. And have you been in close contact with Arthur Culombe throughout the years of his life? A. Yes, sir.

Q. Keep your voice up, please. And what have those contacts been? A. Well, they have been sort of pitiful at times.

Q. No, please. I mean, tell us the nature of your relationship with him through the years. When did they begin and what was the type? Visiting your home or you visiting him, or what? A. Well, he was - I remember first, he was about two and a half years old. That was just previous to my being married to his uncle.

Q. Go ahead. A. And at the time I visited his mother's home, which was on Cottage Street, in Fall River.

It was the time he was in a tantrum, sort of a tantrum she was having with him.

Q. What do you mean by a tantrum? A. He was very cranky and crying and screaming and stretching out, and the mother was trying to pacify him.

Q. Two and a half years old? A. About two and a half years old.

Q. Go right on. A. So at that time she said she called the doctor in. I don't recall the doctor's name right now, and he gave her something to soothe him and quiet him.

MR. BILL: Your Honor, I think that we ought to keep somewhere within the rules, I am letting every in, apparently, but what somebody said is hearsay.

Q. Did the doctor give the baby something?
A. Yes, sir.

Q. Do you know whether or not that doctor is alive today? A. I don't know, sir.

Q. All right, you told us about that incident. How closely were you in contact with the mother and the child since then? A. Through the years, the various years of his younger childhood I had him at my home at different times and I have seen him in his own home.

Q. Have you cared for him at times? Have you taken care of him? A. Yes, I have.

Q. Under what conditions? A. There was one time that his mother was ill, he was about four and a half years old, and the grandmother was supposed to take care of him but she was making a mission at the time, and I went down to help out. It was in Fall River, and it was about seven o'clock at night and he started to cry and scream and different things. I thought maybe he was hungry, I tried to

feed him. That didn't seem to appease him. And his grandmother came back from the mission about three-quarters of an hour afterwards and she took -

THE COURT: Don't tell anything she said, but tell what she did.

A. She took and she made him up some - I believe it was some peppermints, or something, in a bottle which would put him to sleep, and she says "I don't know what's the matter" -

THE COURT: Don't tell what she said. Just tell what she did.

A. She had a bad time with him for the rest of the evening until about ten o'clock.

Q. He was about four and a half years old at that time? A. That's right.

Q. During the period of that age, four and a half, say for the next year or two years did you see this little boy very often? A. Quite frequently.

Q. And what was his general physical condition and how did he act, so far as you could see? A. In what way do you mean, how did he act?

Q. Well, put it in your own way, just as though I was visiting your home. How did Arthur act? A. Well, he didn't seem to be troublesome in certain ways, but he didn't seem to have too much interest in anything.

Q. Tell us about his manner of eating, as you observed it, as a young boy. A. When I had him visiting me, this was in the country where I had a summer place, he stayed a few days there and he didn't seem to want to eat like the rest of the children. He used to play with it more than eat, and throw it around. I would try to correct him and say "Use your spoon", or "use your fork", and he sort of pushed it away. He didn't like you to correct him. I said "Well" -

THE COURT: Don't tell what you said. Just what you did.

Q. How old was he - how long did he keep up that manner of eating, pushing his food around, throwing it away? A. The three or four days that he was with me I was pretty discouraged, I couldn't seem to make him happy in any way. I tried to interest him, take him to the beach. I couldn't leave him because he would go out over his head.

Q. He would what? A. He would go out over his head.

Q. What do you mean. he would go out over his head? A. Walk out in the bay. It was a seashore place and he would go right over his head. Sometimes he would go with his shoes on.

Q. We will get beyond that stage. Let's get up around ten or eleven years of age, nine years of age. Were you in a position to observe him during those years? A. Yes, sir.

Q. What did you observe about him? A. He didn't have no pride about the way that he would dress, or he didn't seem to care whether his clothes were buttoned up or his stockings were hanging. I tried to correct this, and even in cold weather when it was freezing cold he would go out with his coat wide open, he wouldn't even button up the coat, or anything like that. We had trouble with him trying to make him do things.

Q. Do you know anything of the manner of his putting on his shoes up until the time he was ten or eleven years old? A. Yes, sir.

Q. What do you know about that? A. Well, while I was taking care of him in his own home, Mrs. Culombe was sick at the time, the children were getting ready for school. There were two other children there and they came out and I went in to see what was delaying Bert, and he was

in there on the floor putting on one shoe. I said "That's on the wrong foot." So he changed it, but he didn't have the mate of the shoe that was supposed to be with that shoe, on. So the other children were quite angry, they wanted to go out to school, so I went back in and I found the other shoe and put it on him and I said "Don't you know that this is wrong?" He said "It's all right." Meaning he put the shoe on the wrong foot? A. Yes, sir.

Q. Do you know whether that continued, whether that was merely that time or whether he was in the habit of doing it? A. His mother said that he did it quite frequently.

Q. You can't tell what his mother said? A. He did it quite frequently.

Q. He did it quite frequently? Do you know that?
A. Yes, sir.

Q. Put the shoes on the wrong feet? A. Yes, sir.

Q. How old was he before he found out how to put his shoes on? A. I'd say in the category of eleven.

Q. About eleven years old? Do you know that from observation the general condition of his health as a boy, say from ten years old on? A. Well, he wasn't intelligent, interested in school work, or he wasn't too fussy about his appearance at any time, and he was a problem to the family.

Q. How about other children? A. Well, I tried to have him associate, bring him in my home to play with my children. He didn't like the same things at all. You could not interest him in writing, or studying, or trying to copy. I tried myself quite seriously to teach him to follow the lines on the alphabet, A or C, or write the word "cat". He didn't seem to be able to follow it. I tried to make him trace it. He wasn't interested.

Q. Tried to make tracing? A. Yes.

Q. Could he do it? A. No, sir.

Q. How long did you have this boy under observation? How long were you, during his life before he came to Connecticut, in a position to observe him? A. About twelve years.

Q. About twelve years of his life? A. Yes, sir.

Q. And is that what you have already told us, what you observed about him in general? A. Well, he was a good natured child, but he would follow people, he would follow the other children. If you would send him to school he might start at eight o'clock and might get to school around 10:30 or eleven o'clock.

Q. You can go ahead. A. He would stop along the way. If he met somebody he would go with them - school wasn't important. They could take him and go off for the day and it was quite a problem following him.

Q. Who would take him? A. Anybody he would meet - any child or anybody he would meet he would follow and go, that's why he lost quite a lot of school work.

Q. You said he was a problem. What do you mean by that? A. Well, to me the mother always seemed excited and worried about the boy. He was everlastingly getting into one thing or another.

Q. What kind of home did he have? A. Fair - a comfortable home.

Q. His father worked? A. His father worked.

Q. The children were in school? A. Children in school.

Q. Did the family attend church? A. Yes, sir.

Q. Was he any different than the other children? A. Yes, sir.

Q. In what way? A. Well, when they went to Sunday School he would go off somewhere most of the time.

Q. Was he different from the other children in the neighborhood - was he different from children in general? A. Yes, sir.

Q. In what way? A. He never used to get into games with other children, but he liked to tag along and follow the children and many of the children didn't want to play with him because they felt he couldn't keep up with them and play their games.

MR. McDONOUGH: That's all.

MR. BILL: No questions.

(witness excused)

ANGELINA CULOMBE, a witness on behalf of the accused Culombe, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Angelina Culombe.

Q. Your address? A. Angelina Culombe.

Q. You may be seated.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Now, Mrs. Culombe, it may be a little difficult. You have a fan in back of you and this is a large courtroom and these ladies and gentlemen on the jury have got to hear you. Will you try to keep your voice up. You are the mother of Arthur Culombe, the defendant? A. Yes, sir.

Q. When was he born? A. He was born February 28, 1924.

Q. How many children have you? A. I have five children.

Q. Arthur is how old with relation to the others?
A. There is one older brother than him - about thirty five years old.

Q. You have one older child? A. He is the second one, and three others after him.

Q. Where were you living in Fall River when Arthur was born? A. Well, I used to live on Lindsey Street with my mother.

Q. What was your husband doing? A. He used to do labor work - he was a laborer - carpenter and roofer.

Q. I didn't hear you? A. Labor work.

Q. Who does he work for? A. He used to work for Mr. Pavey in them days.

Q. When Arthur was born was he a nine month's baby? A. No, he was not.

Q. What was he? A. Eight months.

Q. An eight months' baby? A. Yes.

Q. Where was he delivered? A. In the general hospital.

Q. In Fall River? A. Fall River, yes.

Q. Who was your doctor? A. Well, I can't remember his name. That's a long time ago.

Q. Was he your own physician or an intern?
A. No, he was born without instruments.

Q. He was born without instruments, but was this doctor your own doctor or a hospital doctor? A. He was the house doctor - the intern.

Q. What do you mean he was born without instruments? A. Well, he was born when they didn't expect him to be born - like an accident.

Q. Did you have any difficult at birth - at his delivery?
A. Yes, I did.

Q. Tell the jury. A. Very weak afterwards.

Q. Go ahead and tell us in your own way - tell us what happened at the time of his birth. A. When he was born the doctor told me he was mental - he said he had an injury in the head on his brain and he was going to be mental all his life.

Q. What doctor told you that? A. The doctor that delivered him, who was an intern from the general hospital, and there was a baby specialist with him who came in and told me he is going to be mental.

Q. Keep your voice up. This is important.
A. He says he has an injury in his brain.

Q. How long did you stay in the hospital after Arthur was born? A. I stayed about ten days.

Q. And then did you go home? A. I came home to my mother's house.

Q. Now, how was Arthur as a baby? A. Well, from then he used to have crying spells after that.

Q. After what? A. After birth, yes, he used to cry something awful, there was nothing would quiet him down. I used to feed him, but he wouldn't stop from crying. I used to call the doctor in the night - two o'clock after midnight. I had the doctor come down to my house.

Q. Who was the doctor? A. Dr. Lewis.

Q. Is he alive now? A. No, he is dead.

Q. How long has he been dead? A. Going on four years.

Q. You used to call Dr. Lewis? A. Yes.

Q. In the early morning hours? A Yes.

Q. Why? A. The doctor told me -

Q. Why did you call the doctor? A. Because he used to have those crying spells. He couldn't sleep. Then when he got older he would stand up in his crib and scream and pull his hair and would go in a tantrum and throw himself on his stomach in the crib, and I would call the doctor in the night, and the doctor told me he was mental. He had a mental illness.

MR. BILL: I object to what the doctor told her.

MR. McDONOUGH: Of course, I can't produce the doctor.

THE COURT: That isn't the objection. The objection is to some of the comments as to what the doctor said. I am sure you don't claim it, Mr. McDonough.

MR. McDONOUGH: No, I do not, Your Honor. It is difficult to avoid.

MR. BILL: I realize it is, and I don't want to stop her from telling her story, but we have to keep to some of the rules of evidence. You did ask her what did the doctor say.

Q. Just go along in your own way. You say the doctor came to the house in the early morning hours. Now keep your voice up. You are only getting this one chance to tell the jury.

THE COURT: I think the fan should be shut off to hear her testimony, and I think the jury will agree with me.

Q. How often did the doctor come to the house? I mean under those conditions and at those hours? A. He came up to my house abuot ten or fifteen times.

Q. How old was the baby? How long did that continue - through what age? A. Well, when he was about a month old.

Q. And how long did that condition continue? How old was the baby when that stopped? A. He was almost two years old, and then he was still doing that, and he used to go into a tantrum.

Q. Tell us about the time from when he was two - how he acted? A. He used to cry all the time; many a time there was no stop to it. I couldn't stop him no matter if I fed him, - he wouldn't stop.

Q. Did the other four children act that way? A. No. They was all different.

Q. Was there any treatment given him by the doctor? A. There was, but he says there was no cure for it.

Q. You can't tell what the doctor said. Let us go up to the time he was five, six and seven. Did he still act that way? A. After he was born?

Q. Yes. A. Yes.

Q. How did he act when he was five or six or seven years old? A. Then he got so he got in danger all the time. He was always in danger.

Q. What do you mean? A. Well, I wouldn't let him go out; he would go out in the middle of the street to get run over. Then when he got to be about ten years old, he almost got drownded twice. Once they called the police department to save him. He had a row boat with some kids and the boat went over.

Q. Where did he almost get drowned? A. In Fall River - at the Slater Ferry Bridge on Remington Avenue in Fall River.

Q. You say the - A. They got him down the same spot twice. He almost got drownded.

Q. How about putting his shoes on? You heard me ask

his aunt. A. He never could put his shoes on until he was eleven years old.

Q. What happened? A. He would put them on backwards.

Q. Did you ever speak to him about it? A. Yes, and he wouldn't button his blouse - it used to be crooked all down.

Q. He'd button his blouse crooked? A. Yes, he got to be eleven years old before he could do that right.

Q. And until he was eleven years old when he couldn't button his blouse and put his shoes on right - was that a regular thing? A. Yes.

Q. How about after eleven years old? A. Then he started getting in trouble - feeblemind and all.

Q. How old was he when he first got into trouble?
A. Eleven years old.

Q. Do you remember what that trouble was?
A. Well, he threw stones at the mill in Fall River and broke the windows.

Q. Now, was he in a hospital when he was a boy 11 years old? A. Well, not at eleven. That is the time he went away.

Q. I don't mean a mental hospital - I mean a general hospital. A. He went there for his tonsils when he was four years old.

Q. Did you ever take him to baby clinics? A. Yes.

Q. What clinics? A. That used to be Brightman Street in Fall River.

Q. Did the district nurse come to the house?
A. The district nurse used to come to check up on him.

Q. How did he sleep as a boy and a young man?
A. Well, he would sleep along and wake up screaming and hollering.

Q. How long did that continue? A. That would be up to a year, and I would call the doctor.

Q. Do you know anything in regard to headaches?
A. He used to be complaining of headaches all the time.

Q. How old was he when he complained of headaches?
A. He was about six years old - he used to tell me his head was sore.

Q. How long did that continue - that complaint?
A. It has been like that for a long time.

Q. Well, up until how long ago?. A. From about six years until about eleven years old - when he went away.

Q. How about asprin, did he ever use asprin?
A. Yes, he did.

Q. To what extent? A. For headaches.

Q. How often did he use them? A. Every once in a while. Sometimes probably a couple of days a week, and he would be taken some every week.

Q. Do you know the types of headache he had?
A. He told me his head was sore, and he told me he felt a heavy pressure on his head.

Q. A what? A. A pressure.

Q. Do you recall an incident of a bridge - Staler or Slater Ferry Bridge? A. Yes.

Q. Did you have any connection with that?
A. He was about eleven years old, and a lot of things happened before he went away. He used to stop there - stand up on top of the bridge about fifty feet high. The train

used to run on top of the bridge. He used to div off there. He would stand up there and dive in. I used to see him fall in the river.

Q. Had you ever told him not to do it? A. He was a boy that was forgetful. We would warn him and he would forget it when he goes out.

Q. Was he hurt on one occasion there? A. He got hit by a stone in the water - he went head first.

Q. Did you hear him testify yesterday? A. We took him to Dr. Lewis at the time.

Q. Do you know anything about him getting hit on the head with stones? A. Well, kids near the shore, they were throwing stones and they threw a stone at him and hit him on the head and we complained about it.

Q. Did you take him to the doctor? A. Yes, to Dr. Lewis.

Q. Did you go to the police station? A. Yes, we did.

Q. How about dizzy spells and blacking out?

A. He had dizzy spells and he used to be passing out with dizzy spells.

Q. How old was he when he was passing out with dizzy spells? A. He was about ten years old.

Q. Has he had them later in life? A. Well, no, not since he went away - not since he was eleven years old.

Q. You don't know anything about him when he went away? A. He went away when he was a young boy.

Q. Has he lived at home with you since he escaped from the Wrentham School? A. At times, yes.

Q. How has he conducted himself? A. He was a good boy, he never used to fight with his brothers or nothing at all. He was very good.

Q. Were you driving him with a car up in Swansea about a year or more ago? A. Yes, and we went down 25 feet and the machine tipped over.

Q. Tell His Honor and the jury what happened? What was the cause of that, so far as you know? A. Well, there was no sign where we were going and we fell in that lot - that hole - it was 25 feet deep.

Q. That was over near Fall River? A. Yes. It is a sand and gravel place. There was no light at night. We was going by there and there was no light and no sign. There was no warning of where he was going, but he took the machine and fell in that hole.

Q. Was he driving the car? A. Yes, and the machine tipped over that time.

Q. Did he say anything to you at the time as to how he felt? A. I questioned him at the time and he said he was shocked.

Q. Said what?

THE COURT: Said he was shocked s-h-o-c-k-e-d.

A. Said it was a shock to him.

Q. He said he felt a shock? A. Yes.

Q. Did he feel that before the accident? A. He told me that he was hurt. I was the one that was hurt the most.

Q. Did he say how he felt just before the accident? A. Well, he says he felt all right that night. He took us to Swansea. On the way back we had this accident.

Q. What diseases did he have as a child - what sicknesses? A. He had most everything - scarlet fever. His sister had that, but he just got a slight attack of it.

Q. He had the run of childhood diseases? A. He had measles, whooping cough, chicken pox.

MR. McDONOUGH: That is all.

MR. BILL: No questions.

(witness excused)

RUTH PROUTY, a witness on behalf of the accused Culombe, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Ruth Prouty.

Q. Your address? A. Wrentham State School, Wrentham, Mass.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Miss Prouty, you came down to this court in response to a subpoena? A. Yes, sir.

Q. And the records that have been produced by Dr. Habara are records you are acquainted with? A. Yes, sir.

Q. And they are before you? A. Yes, sir.

Q. And have you gone over those records?
A. Yes, sir.

Q. Do you know the defendant in this case, Bertram Culombe? A. Yes, sir.

Q. In what capacity did you become acquainted with him? A. As a psychologist at the Wrentham State School, I gave him several examinations.

Q. How long have you been psychologist at the Wrentham State School? A. Since 1921.

Q. What is your education and professional background, Miss Prouty? A. Mt. Holyoke College, B.A., Wellesley, M.A., and internship at the Boston Psychopathic Hospital, and 35 years at Wrentham State School.

Q. Miss Prouty, have you testified in many cases in your field in court? A. Yes, sir.

Q. A number of them? A. No, habeas corpus and a few.

Q. But you have testified in superior courts in Massachusetts? A. In Middlesex Superior Court, one case.

Q. Miss Prouty, will you tell His Honor and the jury, and you may refer to Exhibits 10 and 11, of your first contact with Arthur Culombe - your observations and conclusions and opinions - in your own way? A. The first time I saw Arthur was at Plymouth County Jail and House of Correction, Plymouth, Mass. I was there on a Brigs Law case, and two psychiatrists of state mental hospitals of Massachusetts examined the case for Department of Mental Health, and in my capacity I was to give him the mental tests for the psychiatrists. At that time I gave a 1916 Revision of the Stanford-Benet test.

Q. What is that? A. The mental age at that time was 8 years 6 months, and the I.Q. was 53.

Q. What was his actual age? A. He was seventeen years at that time. I also gave him a second test and chart similar to what Mr. Lynch had, in which he had a mental age of 8 years, 3 months. He had no reading whatsoever; arithmetic was high first grade; spelling and language, first grade; writing and language, second grade, and geography 4th grade. That was for the psychiatrists.

Q. That was at the Plymouth County Jail?
A. And House of Correction, October 23, 1941.

Q. Go right ahead. A. Well, he was admitted to the Wrentham State School on October 29, 1941 because the psychiatrists felt we could do something for Arthur. He had long needed institutional care, and we could re-habilitate him and set him in the right path and take care of him

at the School for Mental Defectives. There are 2,000 at the school and we do a great deal for them.

At that time, after admission, November 3, 1941, I gave him a Cornell-Cox performance ability scale, and the mental age rate was 7 years, 9 months, with an I.Q. of 48.

Q. What was his actual age? A. His actual age was still seventeen.

His mental age of seven years nine months, I.Q. of 48; that is in the imbecile classification, showing that with performance ability he was unable to cope. At that time I also gave him the revised Stanford-Binet test, revised in 1937. The physical age, seventeen years, six months, mental age eight years two months, I.Q. 54, which is a low grade moron. He was at the school about seven months before he escaped. At the school only seven months. He was discharged from escape of one year, which is the policy in Massachusetts.

Q. After one year - A. He was only seven months at the State school and on escape for a year and then discharged.

Q. Now, the psychologist measures the mind and ressoning capacity of the individual? A. Yes; he evaluates the mental rating of a person.

Q. And his intelligence quotient was what?
A. 53 on one test and 54 on another test.

Q. And his mental age at the age of seventeen was what? A. One test was eight years two months. The other test was eight years, six months. And performance ability, the test was seven years nine months.

Q. And he was in the class of imbecile? A. Low grade moron.

Q. How close to the imbecile is that? A. Very close.

Q. Very close? A. Very close.

Q. Now, what is the lowest mental grade? A. I.Q.?

Q. Yes - No; mental grade. There's a moron; there's imbecile. What is lowest? A. The old classification was idiot. The idiot classification.

Q. And what is the type above the idiot?
A. Imbecile.

Q. And then the moron? A. Yes.

Q. What is the normal intelligence quotient for a normal person? A. We count an average normal intelligence quotient about ninety to one hundred and ten.

Q. Now, you have given to the Court and jury a measure of his intelligence tests and age, his I.Q. Can you tell us what the actual age is that the brain capacity is measured at its peak? A. I am not sure that I understand your question.

Q. The way it is framed I don't blame you. Does the age of fifteen or sixteen mean anything to you in measuring the intellectual capacity of an individual? A. Yes.

Q. What does it mean? A. We use that for the adult division. An I.Q. is an intelligence quotient, it is a combination between mental and physical, and for adults we divide by fifteen.

Q. So that at the time that these tests were given to Culombe he had reached that actual age that was used for the purpose of making a test of an adult, hadn't he?
A. That is right.

MR. McDONOUGH: Cross-examine, Mr. Bill.

THE COURT: Cross-examine, Mr. Bill.

MR. BILL: No questions.

THE COURT: You may step down, Miss Prouty,

MR. McDONOUGH: Doctor Schwartz.

ABRAHAM L. SCHWARTZ, a witness called by the accused Culombe, having been sworn by Mr. Coburn, testified as follows:

BY THE ASSISTANT CLERK:

Q. Your full name? A. My name is Abraham L. Schwartz.

Q. And your address? A. I live - my home address is 33 Blue Hills Terrace, Milton, Massachusetts, and I work for the Bedford Veterans' Administration Hospital, in charge of the acute service.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Doctor, you are a practicing physician in the State of Massachusetts? A. For almost thirty years.

Q. And what is your connection - what was your connection with the Bridgewater State Hospital? A. After my internship-

Q. Before we go any further, let's get your medial background, your psychiatric background, your educational background. Let's go all through that. A. Well, I am a graduate of Tufts Medical School, 1927. I interned a rotating internship at Fall River Union Hospital, Massachusetts, and then I went as assistant physician of the Bridgewater State Hospital where I became later on senior physician and finally acting medical director. And also during that time I had been senior out patient department physician on mental and nervous diseases of the Boston Dispensary. I was a Major in the United States Army and Chief of the Neuropsychiatric Hospital, Station Hospital, at Camp Campbell, and I am certified by The American Board of Neurology and Psychiatry, 1940, in both neurology and psychiatry, and I was director of clinics at the Foxboro State Hospital and then I went to - I was employed by the Veterans' Administration and was in several of their installations and facilities at Manchester, New Hampshire, at Albany,

New York, at Brockton, Massachusetts, and now at Bedford, Massachusetts.

Q. In Veterans' installations? A. Well, hospitals, facilities.

Q. What is your position at the Bedford Hospital?
A. I am now in charge of the acute service at the Bedford Veterans' Hospital.

Q. Doctor, have you testified in criminal cases for the State or the prosecution in your career as a psychiatrist?
A. I did.

Q. For the Commonwealth of Massachusetts you have been a witness in their prosecutions? A. I did.

Q. Doctor, in the course of your career have you dealt with a great number of mental patients of all types?
A. I have.

Q. Have you any idea how many? A. I couldn't tell you, but you can readily see by being chief of a whole service in the army I had under me at Bridgewater the insane criminals and mentally defective group, delinquent and defective, as well as prisoners, and so forth, in various departments of the prison.

Q. Is it safe to say thousands of patients?
A. I might say that.

Q. Now, before we go any further, Doctor, it just occurred to me, so I am going to ask you this question. Are there different - put it this way - fields, viewpoints of psychiatrists today - I'll withdraw that. What is the field of psychologist relative to the psychiatrist? A. Well, the psychologist is an ancillary department that coordinates, as you might say, laboratory findings for a physician, so that is an avenue or instrument of the psychiatrist in evaluating various departments of processes, comprehensions and so

forth, so he can evaluate the clinical picture of the individual as a whole.

Q. And is the psychologist used today in the practice of modern psychiatry to assist in aiding modern psychiatry?
A. Yes.

Q. Are there some viewpoints of psychiatry today - that is that do not use psychologists today? A. I don't believe so. I think that at the present time different fields of psychiatry employ psychologists to help them out in arriving at conclusions as a team.

Q. In what way does a psychologist assist the psychiatrist? A. Well, in a number of ways. Clinically he has a battery of tests, various tests, which have already been enumerated, I believe, before the Court, and these go into various areas of thought processes, as I said, memory and so forth, so that the psychiatrist can then evaluate whether the whole clinical picture is in conformity with his diagnosis and the procedure of treatment. This may be an organic deficiency which would corroborate, say, x-ray, electroencephlogram, pneumonencephlogram and such findings in relationship to the confirmatory department as well as to help their associates determine in coming to a more definitive concept of treatment and diagnosis.

Q. Doctor, I show you Defendant's Exhibit 11, Culombe's Exhibit 11. Do you recognize that? A. Yes, I do. It comes from Bridgewater State Hospital, the usual form.

Q. You were connected with the Bridgewater State Hospital? A. I was.

Q. What years? A. I believe between the years of 1928 to 1947, and there was a short interval while I was in the service that I was away from that hospital.

Q. During the time that you were connected with Bridgewater State Hospital did you professionally come

in contact with the defendant in this case, Arthur Culombe?

A. As from the records, I did.

Q. Do you recall - question withdrawn. Did you this morning see Arthur Culombe? A. I did.

Q. - before court? You talked with him? A. I did.

Q. And is he the man that that exhibit that you have before you, refers to? A. Yes, sir.

Q. Now, Doctor, referring to that exhibit, will you tell His Honor and the jury what professional treatment, examination, you gave to Culombe, what conclusions you arrived at? A. Well, he was given -

MR. BILL: Your Honor, I think that the record speaks for itself.

THE COURT: I would think that were so, Mr. McDonough.

MR. McDONOUGH: Well, no, Your Honor, the record does speak for itself. I am merely asking him to refer to the record and I am asking him for his opinion, his recollection of his treatment and conclusions.

THE COURT: That may have been what you asked for, but my impression was that that isn't what you were going to get. It looked to me as if he was simply going to read from the record.

MR. McDONOUGH: I don't think so, Your Honor.

THE COURT: Let's make that clear.

MR. McDONOUGH: I will reframe the question.

THE COURT: All right.

Q. Doctor, you have looked at that record, haven't you? A. Yes, sir.

Q. Did I, as a matter of fact, a month or two ago, send you a copy of that record? A. You did.

Q. And you had the opportunity to study it?
A. I did.

Q. Was last night the first time that you talked to me personally? A. That is right.

Q. Now, do you recall examining Culombe, Doctor?
A. I recall it only through the records.

Q. From the records that you have examined, did you - can you refresh your recollection? A. I can only go on what I said in the record.

Q. Well, the record that is before you was made by who? A. The examinations as described were made by me, and then he was -

THE COURT: No. The question is who made the records? Do you know that? Not who made the examination. Not who made the examination. Who made the records that you are referring to?

A. The Bridgewater State Hospital.

Q. Doctor, did you draw up the summary that is contained in that exhibit? Did you dictate it? A. I did.

Q. And that summary was read to the jury yesterday by myself, and does that - does that summary present your views and conclusions? A. That is correct.

Q. And your conclusion was, as the record shows, that he was an imbecile, is that correct?

MR. BILL: Objection, Your Honor.

THE COURT: I will sustain it.

Q. What is your conclusion?

MR. BILL: Well, Your Honor, the record speaks for itself, and the doctor says that he can't go beyond the record. I think that it is immaterial.

THE COURT: Of course, I don't know whether it is clear, Mr. McDonough, but there isn't any showing that a review of the record has given the doctor any recollection whatsoever.

MR. McDONOUGH: I wil withdraw the question. I'll take the record, so that there will be no confusion - I'll take it to the other end of the room.

THE COURT: I am not worried about the doctor's using it. It seems to me that what the doctor said was that he had no - that is my impression was that he indicated that he had no recollection even after looking over the record.

MR. McDONOUGH: That wasn't my impression. May I clear it up?

THE COURT: Yes, let's clear it up.

Q. Doctor, you have looked over the records?
A. That is correct.

Q. After looking over the records have you refreshed your recollection as to the conclusion you reached about Arthur Culombe? "Yes" or "no". A. Refreshed means in what sense?

Q. Do you remember now your conclusions that you reached? A. I do.

Q. And what conclusions did you reach -

MR. BILL: Objection.

MR. McDONOUGH: I haven't finished my question.

THE COURT: Go ahead.

Q. What conclusions did you reach as regards the mental status of Arthur Culombe?

MR. BILL: Objection.

MR. McDONOUGH: Claim it.

MR. BILL: May I ask a question, Your Honor?

THE COURT: With reference to admissibility?

MR. BILL: To admissibility.

THE COURT: Surely.

MR. BILL: Do you remember anything beyond the record book itself, Doctor, that you can add to this, other than what your conclusion is as stated in the record book?

A. Not as regards the records, no. As a question of opinion, that is a different story.

MR. McDONOUGH: You do remember?

THE COURT: No, he hasn't said that. What we want to know is this: having read that record do you have any recollection at all now of examining Arthur Culombe at the time that this record was made? A. I don't have any clear recollection of having examined him, except from the record, sir.

THE COURT: In other words, what the record says you believe is correct, but you have no recollection of what you put in that record at the time that you put it in, or of your examination of Culombe, is that correct?

A. That is correct, sir.

THE COURT: I will have to sustain the objection.

Q. But this is a record made by you and it contains the conclusions reached by you, is that right, Doctor?
A. That's right, sir.

Q. And if this record was read to the jury yesterday, they were your conclusions, weren't they? A. That is correct.

MR. McDONOUGH: That's all.

THE COURT: Any cross?

MR. BILL: No, Your Honor.

THE COURT: Step down, Doctor. We will stop here. Do you think maybe you have finished?

MR. McDONOUGH: I think maybe I have.

* * * * *

DONALD PAIGE, having been previously sworn, recalled as a witness for the State.

DIRECT EXAMINATION BY MR. BILL:

Q. Sergeant, I show you State's Exhibit MM, the pistol, do you recognize that? A. Yes, sir, I do.

Q. Now whether or not at sometime you were present when Taborsky was there and that gun was shown to him? A. Yes, sir, I was.

Q. And under what circumstances and when? A. I was with Lieutenant Rome. I believe it was that Saturday, March 2 when Lieutenant Rome showed Joseph Taborsky that gun and identified it.

Q. You are now talking about State's Exhibit MM?
A. MM. And he identified it —

MR. BURKE: I will object to this and move it be stricken. No connection has been shown existing between this gun and the killings.

THE COURT: Overrule the objection.

MR. BURKE: May I have an exception?

THE COURT: Surely. Go ahead.

* * * * *

BERTRAM IBELLE, having been previously sworn was recalled by the accused Taborsky and testified as follows:

DIRECT EXAMINATION BY MR. BURKE

Q. Mr. Ibelle, you are a psychologist? A. Yes, sir.

Q. And you testified here the other day, so I think the jury knows your background. You were appointed by the State, were you not, to examine Joseph Taborsky?
A. Yes, sir.

Q. Or by the Court? And you did do that? A. Yes, sir.

Q. How many times did you see him and when?
A. I saw him four times, April 3rd, 4th, sixth and eighth.

Q. Now, you rendered a report, did you not?
A. Yes, sir.

Q. And that report was also given to the State?
A. Yes, sir.

Q. Now, in the report on page 2, the first paragraph, "In part, the examinations administered to this point were given in an effort to rule out intellectual deficit due to some sort of organic brain condition. The results are equivocal and any definitive statement must come from neurological examination. However, the weight of evidence here is heavily for a functional and against an organic explanation of any noted deficits." Would you explain that to the jury and to the Court? A. When I was first contacted about seeing Mr. Taborsky one of the few things that was told to me was that there had been some sort of a brain abscess at birth, and I felt that in view of this I should do certainly a careful makeup concerning the possible effects of this to find out if this might have any effect that I could find on his present level of functioning.

Now, I used several different types of tests to try to approach this problem. The first was the Weschler Intelligence Scale. We know from past experience that certain tests, certain sub tests on the Weschler scale, such as the amount of information that the person has, the size of his vocabulary, and that sort of thing, tends to holdup well even when there is some brain difficulty. There are other sub tests which do not hold up well when there is brain difficulty. Some of these are the arithmetic sub tests, his ability to repeat digits forwards and backwards, and that sort of thing.

When I had finished with the administration of the Weschler, the deficit as measured by the difference, the hold test and don't hold test was large enough so that I felt I had to go further with it. I felt at this time that it did not represent organic damage for this particular reason. I felt that there was some lack of motivation to do well on the test, there was some lack of interest in

working carefully. He was rather reckless on some of the items. When I would stop and ask him to work more carefully he was capable of doing work. So that some of the sub tests which show an impairment of efficiency, I felt that the impairment was due to this recklessness, this lack of motivation, rather than to organic things. However, I felt that I should proceed further.

The next test which I gave was the Bender-Gestalt Test. This is a series of simple designs, diamonds, squares, dots in certain patterns. We find that people with a certain kind of brain damage have lost the ability to coordinate the mind and the movements and they frequently have difficulty in reproducing these designs correctly.

On the first administration of this test, again the lack of motivation interfered with the results. His attitude at the time that the tests were taken is something like this: He had his head in his hand like this, and the paper was on the table and he was drawing the design, there was no effort to hold the paper steady, and the designs were rather distorted because of this.

I re-administered the examination, again asking for more cooperation, and on the second administration the reproductions were adequate. Again I felt that this did not support any clear cut evidence of brain damage.

The third test was the Weschler Memory Scale. This is a series of items which measures memory in different areas. For example, there is a section devoted to personal orientation, does he know when he was born, how old he is, what year is this, where is he at this particular time. On all of these orientation questions he answered quite well. He was well oriented to time, to place and to person.

His mental control was good. Mental control is measured by the time it takes to count backwards from twenty to one, the time it takes to say the alphabet, the time that it takes to count to forty by three. He was able to do this quickly and adequately and accurately. His recall of recently meaningful verbal material was also quite adequate. This is measured by reading a small story of about four or five lines and asking the person to recall as much of the story as he can. This is done twice on one test. He did quite well with it. There is another section devoted to learning of new associates. The person is required to try to learn this kind of association, "gold, silver; east, west." We have both easy associates and difficult, like "crush, dark." There is no formal association between these two words and he has to learn them. He did quite well on that section, too.

But on the recall of visual designs there was again some deficit. I showed him some designs of varying complexity for a period of ten seconds. Then he was required to reproduce them. He didn't do a bad job, but it was bad enough so that again I questioned whether it was pointing to something possibly organic.

I, therefore, a few days later administered an alternate form of this test. He did quite well. In fact, he reproduced the designs very well. Again I could find nothing that was particularly or grossly organic in the record. On the basis of all of this I concluded that as far as I was concerned I could find nothing definitely organic here.

However, any ruling out of an organic condition would have to be done certainly by a medical man, a neurologist, or something of that nature. I think my only point here is that I am trying to rule out actual intellectual deficit due to an organic condition. As far as I am concerned I feel that it does not exist here.

Q. Did you find any actual intellectual deficit?
A. I found intellectual inefficiencies, yes, sir.

Q. Now, on the same page you state again, as on the intelligence test - I think you are talking there about the Rorschach - you state: "Mr. T again displays his flat, vague, closely guarded approach. His thinking is highly stereotyped, and he seldom strays from eminently conventional percepts. Again, as on the intelligence test, he shows weak analytical and integrative abilities. Intellectual capacities are not utilized in any creative or constructive manner. Anxiety, although present, is apparent mostly in Mr. T's defensiveness. It is under very tight control and no overt manifestation of acute tension is apparent. Emotional life is bland and shallow. In spite of this, however, he does have the ability to put up a superficial front of compliance and affability. Interpersonal relationships are based, as they are, on a distorted conception of what people are really like." Would you explain that to the jury?

A. Again, this particular statement comes not from the Rorschach alone, but it comes on evidence obtained from various tests. Now, I would think the first line of evidence, as far as my report here is concerned, is the way Mr. Taborsky related to me at the time he was taking the examinations. Throughout the four sessions, rather lengthy sessions I had with him, he was always aloof, cool, superficially cooperative, but very much on guard.

Now, he explained this himself by voluntary evidence - something peculiar to the situation between he and I. He knew that I was representing neither the defendant nor the prosecution here, and he felt he had to be quite cautious about what he told me directly. This is quite understandable.

Now, the second line of evidence here would be in the Rorschach. When I spoke of his emotional life being bland, almost superficial, cold, that sort of thing, in

Rorschach interpretation, we take into account the way in which the individual handles the colored cards. We feel that his reaction to the color in the cards somehow represents the way in which he reacts to the emotional stimulation from the environment. We can have many different ways in which a person can handle his emotions. In this particular instance we find that when he makes a response, when he gives a response, where the color is used, the color is not a natural response to something that is had - it is something that is a little bit forced - it doesn't come out quite spontaneously, and we feel when we find this kind of response we are dealing with someone who does react superficially in his emotions, so to speak - that he is being quite guarded and cautious and not revealing himself completely.

There are lines of evidence here again from the Rorschach. We have about twenty-one or twenty-two responses that we call populars. They are responses given by a large number of people who take the test, and we expect of those who are given the test an average record of about five to eight of these popular responses out of thirty. Mr. Taborsky is somewhat restricted. He gave me eighteen responses, yet in that eighteen responses he gave me seven populars, one third of all the available populars. Now, out of the twenty-one or twenty-two responses, six or seven of them, again about one-third, are human percepts. Mr. Taborsky gave me no human percepts of the human nature until the next to the last card, and then he gives one. He has given his third of all the responses in that category, but gives me only one of the popular responses.

When I went back later and questioned him about whether he could see this particular area as human and pointed them out to him, he still couldn't do that. This, I think, gives us some indication of his lack of ability to empathize with other people. We have the kind of

forced emotional quality in his relationships, and here we have some indication that he is not seeing other people where other people see them. This is not the kind of response that we expected from people getting along well with others.

Q. Have you finished? A. I could give more evidence from the other tests, but I leave it up to you.

Q. What was the result of that - is it that part in here where you say interpersonal relationships are poor, based as they are, on a distorted conception of what people are really like? A. Yes, I think in view of the fact of these distorted relations and what he related to me, his replies not being of a spontaneous nature, he doesn't seem to think about other people as the average usual person does, and we would expect his relations with other people to be based on whatever false concepts he has of what people are really like.

Q. Further, you say in that same paragraph - and you relate some stories which I won't read - you say in none of these stories are the consequences of the act spelled out, and what you see is a rather bland and cold emotional life, manifesting itself in the T.A.T. test stories and his limited ability to relate to others in a warm and personal manner. Would you explain that to the jury?

A. The T.A.T. tests or Thematic Appercaption Tests - these consist of a series of pictures such as you might see illustrated in magazine stories. Usually these pictures have some kind of a human relationship - a human relationship is depicted - it might show a single individual so that people can respond to it. It might be one or more people in some kind of a social situation. In going through this particular test, Mr. Taborsky's uniform response with two or three exceptions which I will explain later, was to give a very short stereotyped descriptive statement of what is in the actual picture. There was no story or bringing

into order the imaginative processes and so forth - where he makes something up. In three instances, however, he did go a little bit further than that. In one story showing a man on an operating table being operated on, there was a boy in the foreground and there was a gun next to him. The story goes something like this - "The boy shot the man. He has no feeling about it—" Well, I can read the actual story here. I think it would be clearer:

This story was told after a good period of concentration - he didn't begin right away to tell the story. "It looks like an emergency operation and that kid has something to do with it. I don't know, though, the way the picture is - it is just that that is what he is thinking about - the operation in the background. This is a gun. It could have been that that guy was shot and it is possible that he did it. This is the boy in the foreground, but if he did it he doesn't look very sorry. He is just thoughtful."

I questioned him at this point as to why the boy would do such a thing - there is no clue there as to why. Then I asked him what was the story - why he would do it. Well, - "The way the picture looks - the only thing you could use for a reason is that he had something against that person or that person is trying to do something to someone or to him." I asked him why he didn't seem to be sorry, but just thoughtful, and he said, "Well, that is just the way his expression is. In fact, it looks as though he isn't sorry at all. That is the general outline of other cases - the story in similar veins. There is no indication here there will be any eventual punishment at all - no indication at all of remorse or guilt." The usual person, when he is given this kind of test and given this kind of a story always brings in some implement of eventual punishment or feelings of guilt or feelings he shouldn't have done this or fright. Here we have nothing except the simple statement that this is what happened.

THE COURT: We will stop here. Mr. Sheriff, the accused will be escorted from the courtroom.

Ladies and gentlemen of the jury, I'm going to let you go to lunch. You will not talk about this case nor will you allow anyone to talk to you about it. If there is anything in the papers about the case you are to ignore it. If there are any radio or television comments you will ignore those. When you report back here, report to the jury room and the alternates will report to their room.

(Recess at 1:00 P.M.)

2:00 P.M. - JUNE 25th, 1957

THE COURT: May we have the accused, Sheriff?

(Accused present)

THE COURT: May I have the alternates and the jury, Sheriff?

(Jury and alternates present)

THE COURT: Are you continuing with Mr. Ibelle?

MR. BURKE: Yes, Your Honor.

BERTRAM IBELLE, on the witness stand.

DIRECT EXAMINATION BY MR. BURKE: (RESUMED)

MR. BURKE: May we have the last couple of questions, read, Your Honor?

(Last portion of answer read by reporter)

Q. On page 2, of your report you further state,

"On the MMPI for the psychopathic deviate scale is the only one which shows significant elevation, Mr. T. displays both a distorted sense of values and a distorted idea of what makes others behave as they do." Now, what does that mean? Will you describe that to the judge and to the jury? Let's take it in parts. What is this distorted sense of values and the distorted idea of what makes others behave as they do? You found that from your tests? A. Yes, sir. I think that both of these things come from the same general grouping of answers that he gave to the test. The MMPI is the Minnesota Multi-Basic Personality Inventory. It consists of 550 cards, each with a simple statement on it. I'll give examples of some of these statements in a moment. The person is asked to sort these into three groupings, "The statement is usually true about myself." "It is not usually true about myself," or "I can't decide." When the scale was originally developed the responses of several hundred patients in the Minnesota State Hospital System were obtained and certain scalings, certain groupings of responses were determined from this group of 550 questions, which place a person in a certain category. For example, if a person answers as to the persons diagnosis, as psychopaths do, then his score on the psychopathic deviate scale should be significantly raised. This is some explanation of what this psychopathic deviate scale is.

Now, this might give some indication of the system of values that he at least shows that he follows, that he believes in, and I would like to read some of the responses. He feels that most people are honest chiefly through fear of being caught. "I think most people would lie to get ahead." "I think nearly anyone would tell a lie to keep out of trouble." "Most people will use somewhat unfair means to gain profit or an advantage rather than to lose it." "It is all right to get around the law if you don't actually break it." "A person shouldn't be punished for breaking a law that he thinks is unreason-

able." "When somebody does me a wrong I feel I should pay him back if I can, just for the principle of the thing.

There are many responses in this same vein. From the way in which Mr. Taborsky answered these questions it was my opinion that he feels that most people subscribe to this same system of values, whether they express it or not.

Q. Now, this summary, which you have in your report is what you found over all, I assume? A. Yes.

Q. "Mr. T. is a man of above average intellectual endowment who, because of major character defects, has been unable to capitalize on these assets. Although superficially capable of ingratiating, compliant behavior, his emotional life appears quite shallow. His analytic and integrative abilities are weak and judgment poor. His social behavior is based on a distorted sense of values which he apparently believes is shared, and to some extent accepted by people in general. Anxiety is quite well controlled and guilt feelings seem relatively absent." That is the summary of your examination?

A. Yes.

MR. BURKE: You may inquire.

MR. BILL: Is that the original, Mr. Burke?

MR. BURKE: No, it isn't. It is just a copy. I would like to put it in evidence.

MR. BILL: Where is the original? I would like to put that in evidence.

THE WITNESS: I believe that the original is with the Court, sir.

MR. BILL: Have you got a duplicate?

THE WITNESS: I have a duplicate here.

MR. BILL: And is that it?

THE WITNESS: Yes, sir.

MR. BILL: May that be marked for the State, Your Honor?

MR. BURKE: No objection, Your Honor.

THE COURT: It wouldn't be in this file, would it, the original?

MR. BURKE: It may be.

THE COURT: Was the original mailed to Court?

THE WITNESS: Yes, sir.

MR. BILL: I would just as soon have this marked.

THE COURT: All right, that may be marked State's Exhibit OO, No. 21,665.

(Report of Bertram Ibelle, received in evidence and marked "State's Exhibit OO, Case No. 21665")

CROSS EXAMINATION BY MR. BILL:

Q. There's just a couple of things that I would like to point out, Mr. Ibelle, that weren't brought out by Mr. Burke, I don't think. I am reading from the second paragraph under "Results." "In general the picture is one of a good native intellectual endowment in an individual who lacks the motivational push to capitalize on it and use it effectively." You found that, didn't you? A. Yes, sir.

Q. And then down where you were reading the next to the last paragraph -

MR. BURKE: Is that page 3, Mr. Bill?

MR. BILL: Page 3.

Q. I think you left off with this statement, that you

read from the report, "When somebody does me a wrong I feel I should pay him back if I can, just for the principle of the thing," etc. A. Yes.

Q. "In social situations he feels somewhat ill at least and finds it hard to mix. He feels somewhat depressed because of his present situation but expresses little in the way of remorse or fear." You found that, too, didn't you? A. Yes, sir.

MR. BILL: That's all, Mr. Ibelle.

MR. BURKE: That's all, Mr. Ibelle.

THE COURT: You are excused, Mr. Ibelle.

MR. BURKE: May Mr. Ibelle be excused?

THE COURT: Any objection, Mr. Bill?

MR. BILL: No objection.

THE COURT: You may be excused, Mr. Ibelle.

MR. BURKE: Doctor Abrahamsen.

DAVID ABRAHAMSEN, a witness called by the Accused Taborsky, having been sworn by Mr. Coburn, testified as follows:

BY THE ASSISTANT CLERK:

Q. Your full name? A. David Abrahamsen, M.D.

Q. Address? A. 1035 Fifth Avenue, New York City.

DIRECT EXAMINATION BY MR. BURKE:

Q. Now, Doctor, would you give me your educational background? A. I was born in Norway in 1903, I received my medical education at the Royal University in Oslo, and I graduated as a medical doctor in 1929. I was first year Public Health Officer, studied at the University in Oslo, in psychiatry, in neurology. I studied in

Copenhagen, Denmark and I studied in London. I was working in Norway from 1937 until the war broke out in 1940, with the Department of Justice, Oslo, Norway, as an assistant and as a psychiatrist. I came to this country in 1940, I worked at St. Elizabeth Hospital for half a year, I worked in Illinois State Penitentiary, Joliet, for one year in 1941. In 1942 I was appointed a lecturer at Columbia University. I studied for half a year, 1943, at Meninger Clinic at Topeka, Kansas. I came to New York and worked at Bellevue Hospital as psychiatrist and at the Court of General Sessions in psychiatry in New York City, until 1944, when I was appointed Research Associate, at Columbia University. In 1944 I was appointed Director of Research regarding psycho-somatic conditions and delinquency: I worked at Columbia University and in 1948 Governor Dewey appointed me director of Research Project, dealing with sex offenders, and I worked at other institutes and at Sing Sing, until 1952. I continued to work at psychiatric institutions until 1954, and I was then appointed a consultant at the Department of Mental Hygiene, State of New York, and I have also been, or am, Executive Director of the School Institute, in New York State.

Q. Doctor, would you give me some of the professional organizations of which you are a member or a director, having to do with physical studies? A. I am a member of various societies, American Psychiatric Association, I am a Fellow of that. I am a Fellow of the New York Academy of Medicine, member of the New York City Clinic of Psychiatry, I am a diplomate of The American Board of Neurology and Psychiatry and I am a qualified examiner appointed by the Department of Mental Hygiene, State of New York, and I am a member of quite a number of societies, I don't remember really.

Q. Doctor, did you publish any books regarding the

mind and crime? A. In 1944, I believe, yes, I published the first book here in the United States, "Crime and The Human Mind", which is a comprehensive book about the relationship between crime and the mind. That book was republished in 1945 and translated into Spanish and Swedish and used throughout the world, United States, South America, as a textbook. In 1945 I published a book about the German mind, called "Men, Mind And Power", and in 1946 I published a third book called "Mind And The Death of a Genius." In 1952 a book - pardon me, those three books were published by Columbia University Press. In 1952 I published a book called "Who Are The Guilty"? A study of education and crime, and that book was published in England two years ago. And I am now publishing another book which is - to be published next year. I have in addition to these books published and about between thirty and fifty scientific papers dealing with delinquency, crime, psychotic and psychometric aspects and about education and schools.

Q. And what position to you presently hold, Doctor?
A. I am at the present time a consultant with the department of Mental Hygiene of the State of New York working with the Commissioner of Mental Hygiene regarding particular projects which I am not free to discuss now.

Q. Now, you have also testified in court on many occasions? A. Yes, not on many - on several occasions.

Q. And you have testified both for the State of New York and for the defense, have you? A. I have mostly testified for the State of New York, I believe. Sometimes I have testified for the defense too, I would say.

Q. Now, recently you testified in the State of New York regarding the so-called "Mad Bomber Case"?
A. That is correct, that was for the State.

Q. Did you testify for the State in the case involving the so-called "Thrill Killers" from Brooklyn? A. That is correct.

Q. Did you at my request examine the defendant Joseph L. Taborsky? A. Yes, I did.

Q Will you tell me, Doctor, what were the results of your examination? A. I examined Mr. Taborsky, the defendant, on April 20, 1956. I have written quite a long report, and with the Court's indulgence, may I read from some of the statements I have here.

THE COURT: The question was, what were the results of your examination?

A. The results of the examination —

Q. Let me correct the date, Doctor, it was April, 1957, wasn't it? A. April, 1957 - I am sorry. The defendant in the examination showed little spontaneity in his answers. He seemed to welcome —

THE COURT: Mr. MacGlashan, will you read what you have so far?

(The reporter read the answer.).

THE COURT: I think the jury is having a little difficulty following this. If I may suggest - if you speak a little slower and a little louder they may do better with you.

THE WITNESS: I am a little too modest to speak loud.

THE COURT: Well, you overcome your modesty and try.

THE WITNESS: The defendant seemed to welcome the interview but was cautious in his replies. His voice was well modulated; there was no speech abnormalities;

he was rather alert and oriented. There were no illusions present and no hallucinations could be ascertained. As to delusions, it is interesting to note the fact that he was a "lonewolf", indicating he had difficulty in finding companionship. Although he admits that people have treated him quite nicely, he is resentful that his record has kept him from getting a good job. When he was told that he himself had committed the crimes, and no one else, and he therefore had such a bad record, he still continued to say, 'Well, my bad record prevented me from getting a good job.' On that point he does not seem to have any emotional insight about his crimes. He did not admit that he had done anything really wrong.

In view of this distorted viewpoint, the defendant is evidently laboring under the delusions that he is permitted to kill since in his own mind he strongly believes that society has that right.

In that connection, I would like to come back to the statements which made me believe what I said here.

During the examination he stated - I asked him if he was sorry that he had killed the people or was he sorry for the families and their children and he answered: "I don't think of the people I have killed; I only think of my own family - that is I think of my mother." I asked how about your father - "I never think of him - it is funny, though, if I don't see anybody, I don't think of them."

When I asked him about why did he commit the crimes, he said, very frankly, "When I kill another human being, they didn't think it was wrong when they wanted to kill me They looked on killing as if they enjoy it - even the taxpayers enjoy the killing and all other people - and the ministers enjoyed that - they watched the execution. If the majority thinks it is right to kill, why couldn't I do it?"

Q. Now, Doctor, did you find any particular mental condition existing in Joseph Taborsky? A. Yes, I did.

Q. And what was your diagnosis? A. I might give here perhaps my conclusions, including the diagnosis with your consent, Mr. Burke.

Q. All right, go ahead. A. The defendant is an individual who has lived under very deprived emotional, intellectual and financial conditions since his earliest childhood. Because he received little guidance at home, having a drunk father, he very early developed a strong anti-social pattern of behavior, which increased as time went by, culminating in the row of the many murders he is now charged with. One precipitating event to the senseless killings may be his marriage, which seems to have been rather an unhappy experience on his part, and the fact that he sat in prison for fifty-two months awaiting to be executed. No doubt that this long protracted event, coupled with the fact that he had previously spent about twelve years of his time in prison, reformatories and state schools, has developed in him an attitude of callousness and hopelessness of unreality and paranoid reaction that has been instrumental in carrying out his murders. The crimes where by he shocked the many persons he had burglarized or robbed, can be understood because he wished unconsciously to die himself. By killing the people he burglarized or robbed, he made certain that when apprehended, he would receive the maximum penalty. This is the reason why he himself states that he prefers to die than to sit in prison.

Within himself he harbors strong resentment and hostilities against his father and brother, against the latter in particular because he testified against him in the first killing the defendant carried out. Because both his father and brother have been declared psychotic, the brother being still in Norwich State Hospital, the defendant consciously or unconsciously does not want to be in

the same category as them, and therefore prefers, rather to be anti-social than having a sick mind.

In this defendant are ingrained strong and constitutionalized elements of a diseased mind, as evidenced from his brother's and father's psychosis. This mental disturbance he tries to hide by not showing remorse or feelings of guilt for his crimes, also because he feels strongly that society is against him.

The diagnosis is, then, in view of his previous criminal history, his lack of reality, his inability to distinguish between right and wrong, he has developed a system of delusions which brings me to the conclusion that the defendant suffers from schizophrenic reaction, paranois type. For this reason, and since he also must be considered to be dangerous, he must be transferred to a mental hospital.

Q. Now, Doctor, what do you mean by this schizophrenic condition? A. This is a man who is unable to distinguish between reality and fantasy. He has his own values. I was - I don't say pleased - but I was quite taken by the fact that I heard the psychologist testify that he too felt this defendant suffers from distorted values. This is just what I understood to have happened. He does not have a real appreciation of what is right and what is wrong.

Q. Now, when you found he had an unsound mind, whether or not you found he was not responsible for his acts? A. I do find this man to be irresponsible for his acts.

MR. BURKE: You may inquire.

CROSS EXAMINATION BY MR. BILL:

Q. May I see your report, Doctor? A. I don't know whether you should see the report?

MR. BILL: May I see the report, Your Honor?

THE COURT: Let Mr. Bill see the report.

MR. BILL: May I have a little time, Your Honor?

THE COURT: Certainly

Q. Doctor, when you asked Taborsky: "Why did you kill when you were going out burglarizing?" and he answered, "I didn't want to be identified." That is true - do you remember that? A. Yes.

Q. Now, that means, does it not, to you, that he didn't want to be identified because he would be arrested possibly through his identification and suffer a penalty, isn't that correct? A. Yes, but it did not.

Q. Yes, but is that correct? A. Will you please ask it —

THE COURT: Yes, read the question, Mr. MacGlashan.

(The Reporter read the question)

THE WITNESS: Yes.

Q. So that he did know he was doing something wrong, and if he was identified he would be penalized for it, is that correct? A. No, I don't think so, because he doesn't have the emotional appreciation. Superficially, perhaps, he knew what he was doing was wrong, but only in a superficial sense.

Q. Then what would he care whether he was identified or not? If he thought he was right, what did he care if somebody identified him? A. Well, he did plenty of things in order to get caught.

Q. That wasn't the case until later - that he ever admitted what he had done or confessed to it? A. I am under the impression he has confessed.

Q. You knew about the Woolfson case didn't you? A. Yes, sir.

Q. And he told you according to your report he had committed the Woolfson murder? A. Yes.

Q. Do you know - and you must have known, and certainly could have found out in asking him, that he denied all the way through his trial that he committed that crime; you knew that didn't you? A. Yes.

Q. Well, how was he trying to be caught and charged with the crime; will you explain that? A. Very simply, sir. The mind - the human mind - doesn't work along one track it works along several tracks. The unfortunate thing is each mind has many influences within it, such as drivers and tendencies which one minute might say this and one minute may say that. That is what makes psychiatry and the exploration of the human mind so awfully difficult.

Q. I don't think you have answered my question. I asked you when you questioned Taborsky and he said he didn't want to be identified because he might face a penalty, and you said on the contrary, he wanted to be caught, or something like that. A. Yes, and my proof for that is that he shot the people.

Q. And if he wanted to be caught in the Woolfson case, why didn't he come in here and admit instead of denying it all the way through? A. I know the answer to that question.

Q. You know the answer to that question. And as a matter of fact, whatever time he spent in the State's Prison was from his own doing, was it not, of denying what he had done when he really did it? A. I don't believe it was just that because his brother became mentally insane, and therefore the state could not use his evidence, and I don't believe it was just because of his

own doings. I agree with you, sir, that it was the result of his own doings, but there are quite a number of circumstances which really complicated the whole matter.

Q. Well, if he had done the Woolfson shooting, as he told you, he could have saved himself a lot of time by just admitting to the murder, couldn't he?

Mr. Burke: I object. That question has nothing to do with this examination — could have saved himself a lot of time.

THE COURT: I will sustain the objection on the ground of form. I think the inquiry is proper.

Q. You said something, Doctor, about the effect that being in State's Prison had on him - of some four years, is that correct? A. Yes.

Q. Does it make any difference in your opinion whether he was down there as the result of being committed on a crime he didn't do as against a crime he did do? Is there any distinction between the two? A. Any distinction? I believe the result is that he was still sitting there for over four years waiting execution, and I believe the man, even if he is very callous, he would be under a severe emotional strain waiting there four years to be executed.

Q. And that wouldn't make any difference in his reactions as to whether he was guilty or not guilty?
A. I don't think there would be any.

Q. How about a man who was perfectly innocent and staying there four years - he'd come back with bitterness and anti-social feelings, wouldn't he? A. Yes.

Q. And the man who actually did the crime, he should be grateful, shouldn't he, to society? A. Yes, of course.

Q. He got off from something he really did? A. Of course he ought to be grateful, but there is a distinction.

Q. Well, —

MR BURKE: I object. He should allow him to finish the answer to one question before starting another.

THE COURT: I think the doctor should permit Mr. Bill to finish the question, and then having finished, I think he should permit the doctor to answer. There is no question pending.

Q. Doctor, as a matter of fact, didn't Taborsky tell you that he went out and committed these robberies up here in Hartford because of his lack of work down in Brooklyn?

Mr. BURKE: This is objected to, Your Honor.

THE COURT: What is the objection?

MR. BURKE: The objection is on the question of the relationship between the doctor and the patient.

MR. BILL: Well, of course, there isn't that in Connecticut.

THE COURT: You don't have any authority for that?

MR. BURKE: No.

THE COURT: Then I will overrule the objection.

MR. BURKE: Exception.

THE COURT: Surely. Read the question, Mr. MacGlashan.

(The reporter read the question).

THE WITNESS: May I address one question to Your Honor? I do believe that the privilege of communication between doctor and patient is prevalent all over the United States.

THE COURT: I will inform you, Doctor, it isn't prevalent here, and you shall answer the question. Do you want it read again?

THE WITNESS: Yes.

(The Reporter read the question)

THE WITNESS: I don't remember that.

Q. You don't remember that? A. No.

Q. He didn't tell you that? A. May I refer to my report and maybe I can refresh my memory?

THE COURT: Surely, - you have a report too? I take it you are handing a copy of the report to the witness?

MR. BURKE: Yes, Your Honor.

THE COURT: Just for the record to be clear.

MR. BILL: You can use it when it is in.

THE COURT: I'll permit you to make whatever use of it you desire to, Mr. Burke. The question is, is there objection to having it marked?

MR BURKE: No, I don't, but I don't want to be stripped of it. He has one copy, this is the original, and I wind up without any.

THE COURT: This is the one that was marked?

MR BILL: Yes.

THE COURT: I take it that there is no objection?

MR. BURKE: No, Your Honor.

THE COURT: Exhibit PP in No. 21,665.

(Report of Doctor Abrahamsen, received in evidence and marked "State's Exhibit PP, in Case no. 21,665")

Q. Doctor, referring to that last exhibit, which is your report, and turning to page 5, if you will, the top paragraph, and while you are looking at that I will read it, "When

asked about his work he stated that he could usually get about fifteen dollars a day when he was working with a moving company, but when he came to Brook'n he earned only $40.00 a week and 'who could get along on that'?"

Q. Now, Doctor, you did discuss his monetary situation as to wages and so forth in that paragraph, didn't you?
A. Yes.

Q. And did you discuss with him the various crimes that he had committed? A. Yes.

Q. And didn't he tell you in each instance that he went out to get money? A. I do not remember if he told me in each instance he was going to get money, but that - I think in substance. In substance you may be right.

Q. You didn't think for a minute that he went out just to kill some gas station man that he didn't know? This was money, wasn't it, that he was after? A. I am not quite sure about that. I may say that such a man could very well go out to kill in order to kill.

Q. Didn't he tell you, though, that he was out after money? A. That particular aspect was not discussed so much in my interview with him, because he did not really bring that up as a particular motivation.

Q. Weren't you interested in that particular feature of it? A. I was interested. Of course I was.

Q. Why didn't you go into it a little more deeply?
A. I discussed this with him, as I said, but he did not - although he at times possibly may express an interest in money it was my impression - and I can only give you my impression - my impression was that this man really was not going in to take money as such, because how much did he get in any of them, and it was not much, to kill a man in order to get $20.00 or $30.00 each time.

Q That is your argument, but I am talking about each

instance. In no instances did you find that he went up, that he held up anybody that he actually knew, is that correct?

A. No, I don't believe that he knew anyone, except - may I elaborate a little here?

THE COURT: Go ahead.

A. Except I do know that he was trying to kill someone whom he knew.

Q. He was trying to kill someone he knew? A. Yes, and he made definite plans about killing someone that he knew, and that was not in connection with any money.

Q. But that was through resentment because this man had done something to him, is that right? A. Yes, but you understand that it is through sentiment and hostility everyone kills.

Q. But not everyone kills that are out robbing to get money. That isn't true, is it? A. I didn t -

THE COURT Read it, Mr. Burke.

(Last question read by reporter).

A. Yes, that's right.

Q. That isn't true? A. No.

Q. Did he tell you that he had to make some extra money because his wife thought he was working steady?

MR. BURKE: I object to this, Your Honor. This is five times that I have heard this question and four times that the witness has answered.

MR. BILL: I have never asked him that before.

THE COURT: I didn't hear it, but I will overrule the objection. Will you answer? Read it, Mr. Burke.

(Last question read by reporter).

A. May I please refer to my notes?

THE COURT: Surely, Doctor.

A. I am sorry, but I cannot remember that particular point, sir, unless it is written here and I cannot find it.

THE COURT: All right, you have answered it, Doctor.

Q. Well Taborsky gave you a different idea than that he just wanted to go out and kill somebody, Doctor? Didn't he tell you "I didn't want to be identified" on the bottom of page five? A. On the bottom of page 5?

Q. Page 5, the last paragraph. A. Yes.

Q. I asked "Why did you kill?" A Yes.

Q. "When you were going out burglarizing." His answer "I didn't want to be identified." A. Yes, but please, why don't you continue that, please.

THE COURT: No, wait a minute, Doctor. I appreciate your situation but you mustn't ask Mr. Bill questions. He can't answer them.

MR. BURKE: What page is that, Mr. Bill?

MR. BILL. The bottom of page 5.

Q. You found him, Doctor, alert, oriented, no delusions, no hallucinations? A. Pardon me, that's wrong. I didn't say "no delusions".

Q. No delusions? A. No, pardon me, I haven't said that.

Q. You didn't say "no delusions"? A. No illusions.

Q. No illusions? A. No illusions.

Q. Did he have delusions? A. Yes. It is written very clearly.

Q. In his history of this New Britain case, did he give you the details of that case? A. Pardon me?

Q. The New Britain case? A. I am sorry, I don't remember that case.

Q. That is the gas station where two men were killed. Did you ask him about that? Or did he tell you about it?
A. Yes, I think that he told me something about it, yes.

Q. Did he tell you that when the customer drove up to the station he hesitated, he wanted to see if he would go away? A. Pardon me. He hesitated?

Q. He hesitated a while to see if the customer would go away. Did he tell you that? A. I don't remember that.

Q. It is your theory that in all these incidents that Taborsky went to these various places just to kill somebody, Doctor? A. I believe there has been a mixed motivation, not only to kill but also not only to steal. This man killed because he wanted rather to die than be in prison.

Q. He was out of prison. There was no question of his dying then, when these things happened. How do you explain that? A. But well, sir, in the human mind goes around quite many ideas, very much unconscious, you are not completely aware of them. And this man here, having been in prison for four years before, he felt within himself that he was going to be caught, better to be caught in the worst possible way, and so having developed no conscience of his own, he rather felt that he would rather prefer to die than being in prison, and so, therefore, he killed. That was his motivation, unconscious motivation on the same line if not more comparable than that motivation of robbing because he wanted to have money.

Q. Did he tell you that there were other hold-ups that he had committed where no killing had been done, or no attempt to kill? A. I don't remember that, sir.

Q. Did you ask him that? A. Will you please read the question?

THE COURT: Read the question, Mr. Burke.

(Last two questions read by reporter)

A. It might very well have been. I cannot remember it very clearly, but it might very well have been that on a few occasions he may not have killed.

Q. Wouldn't that have been highly important, Doctor?

A. Yes, but as far as I am able to think through this report it is - my main impression stands, that whenever he went out he went out to kill.

Q. Well, how are you going to determine that, Doctor, except from what he tells you and your putting together facts with it? That's the way that you do it, isn't it?

A. Yes, that is correct.

Q. Weren't you highly interested to find out if he did go out on some of these hold ups and didn't kill?

A. To my memory it seems that - or at least to me he did not admit to me that he had committed any robbery as such without killing. I am not - I am only talking about the time from 1954 when he came out from prison.

Q. And so am I. And weren't you interested in asking him directly whether he had gone on a hold up without killing? A. It seems to me that he had - in all these reports he had killed, always.

Q. No, that isn't the question.

THE COURT: Read the question.

(Last question read by reporter).

A. I don't believe to the best of my knowledge when I examined him, I don't believe that he ever once admitted to me that he had committed a robbery without killing or trying to kill.

THE COURT: Doctor, I will have the question read again. See if you understand it. Read it Mr. Burke.

(Last question again read by reporter).

THE COURT: Would you answer that, Doctor, if you understand it?

A. Of course, I would have an interest in such a question. Of course. But in view of the fact having the record of the times he has pulled, seven or eight times, such a question for me would be superfluous, because I understood that the motivation was more for going out killing than for any other motivation.

Q. Then I understand, Doctor, that just because a man has pulled in a number of instances you just deduct from that that he is out to kill, and only that? A. Yes.

Q. That is correct, isn't it? A. Yes.

Q. And yet in order to absolutely prove your theory wasn't it a highly important question to ask him if he hadn't gone out once or twice, or even more times on a hold up when he didn't kill? A. Well, sir, you may think this would be an important question, and I certainly can agree to that. However, in his long anti-social record, which really showed a gradual worsening of his own mental condition and his own appreciation of his own situation I did not believe for a moment that it was so necessary for me to ask that particular question. Now, mind you one thing sir, I don't have any particular record of that point.

Q. Are you telling us, Doctor, that Taborsky believes that he had a right to kill because society has the right to kill? A. Those words were written down just the way it was said, sir.

Q. Those are his words? A. His words.

Q. Did he tell you that when he came out of prison after those four years that he stated that he had become highly religious and was going into a monastery and that he was happy about the whole situation.

Q. Did he tell you that? A. He mentioned about spiritual revelation or religious life, but I didn't think that that was in any way a sincere conversion, if I may use that as an expression.

Q. He told you that his mother was a highly religious woman, didn't he? A. Yes.

Q. And that he loved her greatly? A. Yes. Well, may I correct that answer, please? You said that he loved her greatly. It may very well be that he loved her, but he loved her in his own way - that is as a dependent child loves a mother. He didn't love his mother as an adult.

Q. We all love a mother in a dependent way, don't we, Doctor? A. More or less, yes. But when you get to be grown up you like to make your own decisions, you become independent. But this man here, he was - even when he was married he said "I'd like to go back to Mama."

Q. He said to you, when you asked him, on page 5, "Is there anything wrong with you " Wasn't the answer "There must be something wrong with me. Maybe I have no conscience. These things don't bother me. I never was afraid." That's correct isn't it? A. Yes, that's correct.

Q. So he knew what he was doing, didn't he, Doctor?

A. No, I don't think so. It depends on what you mean, sir. I don't understand your question, he knew what he was doing. Maybe -

THE COURT: Doctor, do I understand that you don't understand the question?

THE WITNESS: Yes.

THE COURT: Would you reframe it, Mr. Bill?

Q. He knew then, right from wrong, didn't he?

A. I would appreciate it if you would be more precise in your question. You mean in general or in this particular

situation referred to on page 5? Is that what you mean? I don't understand you, please.

Q. He did know right from wrong, didn't he?
A. You mean in a general way?

Q. What's that? A. You mean in a general way?

Q. I don't understand you, now.

THE COURT: In a general way.

Q. In a general way? A. In a general way.

Q. We will take the general way first. What is your answer to that? A. I believe that superficially he may possibly have had senses of right and wrong, but only superficially, as this man lives in a world of distorted facts.

Q. Are you telling us, Doctor, that this man didn't know it was wrong under the law to rob and to kill? Are you telling us that? A. Yes, I believe that this man didn't know that it was wrong to kill or rob, because as he says, "Society can kill, so why can't I"? He did not follow the rule of society. That is one of his distortions.

Q. Has he always been that way? A. I believe that this distorted sense of values may have developed little by little. Remember this is a fellow who started with anti-social activities when he was five or six years old, living in quite a social or anti-social environment, and I believe that he certainly had developed this distorted sense of values.

Q. You don't think that he knew right from wrong since he was a boy, is that what you say? A. Yes, since he was a boy.

Q. All the way through? A. All the way through.

Q. And yet you will admit, will you not, that all the way through he has denied on most occasions having committed the act in order to avoid a penalty? You know that to be true, don't you? A. Yes.

Q. How do you explain that, if he doesn't know right from wrong, Doctor? A. Very simple, because he doesn't dare to face reality. He doesn't know what reality is. He doesn't know what the situation is. If this man didn't have a defect in his reasoning he would not be sitting where he is. If this man didn't have a defect in his emotions, in his feelings then he would not arrive at such distraught values as he has.

Q. As a matter of fact, didn't he tell you of a crime where he and another person went in a car on a holdup and Taborsky stayed in the car and the other man went in and did the holdup and did some shooting - did he tell you about that? A. I don't remember that.

Q. Weren't you interested, Doctor, particularly in view of your theory that he went out merely to kill just for killing's sake, and wouldn't the most important question be to find out if he ever went on some venture and didn't try to kill? A. I believe life is a little more complicated than that - there are certain situations where things take a certain course - you may not be able to predict and that this possibly might have been a situation where we dealt with men who were having some sort of disagreement between them. Many things can happen. The facts stand out that this man has committed a row of killings.

Q. That is where you start from, isn't it, with the meaning of it? A. I don't start from that. I started from the time he was born - even before that time.

Q. Well, you keep talking about the number of killings and you don't seem particularly interested in the questions I ask you. Aren't you starting with the man when there have been some killings and arrive at your conclusions from that? A. Yes.

Q. So that because a man has killed a number of people, to you that means he is psychotic? A. It may

mean that, but not always. You can only decide this upon full individual examination of the defendant coupled with the history and what you find in your examination.

Q. Did you notice that Taborsky has a very prominent chin? A. Yes.

Q. Don't you think that that fact dovetails in with the point that he made when he said he didn't want anybody to identify him? A. Yes, I believe so.

Q. So he eliminated those people so he couldn't be identified, isn't that true? A. I think you have a strong point there, yes. May I say what I did?

Q. No, you have answered the question. You got all this information in one examination, didn't you? A. No, I have received the information in reports from various schools, from Mr. Burke, from other sources I have here and my examination which took about three hours.

Q. Well, I still ask you the question that so far as any personal examination was concerned, you saw him only once? A. Yes, I am sorry, but I believe you failed to note that this lasted three hours.

THE COURT: No, it would be better if you answered the question. If anything is necessary to be added you will be given an opportunity to do that. I don't mean to reprimand you, but this is a court of law and we have certain rules.

THE WITNESS: I apologize. I examined him only once.

MR. BILL: That is all.

REDIRECT EXAMINATION BY MR. BURKE:

Q. Now, Doctor, Mr. Bill was reading to you from the bottom of page five, and as I recall it, you tried to state he did not completely read the statement. Do you have page five there? Will you read the whole statement

Mr. Bill started to read? A. He started to read, "Why did you kill when you were going out burglarizing?" He answered, "I didn't want to be identified. I really wanted to die rather than being in prison." And then, "I remember, that they were trying to pass a bill here in Connecticut against capital punishmen.. I was sitting in prison at that time and I prayed that they wouldn't pass it."

Q. Now, another question I would like cleared up that you tried to answer - the amount of time spent on your examination. You spent a considerable amount of time, did you not? A. Yes, I did.

Q. Besides the time you spent in face to face interview, you had all the records furnished to you from the different schools and all the background records which I sent to you, did you not? A. Yes, indeed.

Q. Including the psychologist's report? A. Yes.

Q. Now, another statement you wanted to add something to on what Mr. Bill asked you - that the killings occurred because the man wished to eliminate people because of the fear of identification. What did you want to add to that statement, Doctor? I don't believe it was from the report. A. Will you please ask it again?

THE COURT: Yes, read it, Mr. MacGlashan.

(The reporter read the question.)

A. Yes, it wasn't only, I believe, a fear of identification. It was also a real wish, unconscious wish, possibly, to die.

Q. Now, as a result of your examination and based on all the facts of your own knowledge, your opinion is that Joseph Taborsky was unable to distinguish between what was right and wrong? A. Yes, that is correct.

Q. And that he suffers from schizophrenic reaction, paranoid type? A. That is right.

MR. BURKE: That is all, Doctor.

RECROSS EXAMINATION BY MR. BILL:

Q. I don't quite understand you interpretation of page five at the bottom where Taborsky said when you asked him why did you kill when you were going out burglarizing and he answered, "I didn't want to be identified - I really wanted to die rather than being in prison." A. Is that your question?

Q. Yes. A. Well, there again comes that real contrast - his hopes and feelings on the one side of not wanting to be identified, and on the other side his wish to rather die than be in prison.

Q. If he really wanted to die, all he had to do was kill someone and give up? A. Yes, but he may very well have some feeling - not having the courage to do so because he was mixed up in his mind.

Q. There was no question about his courage to do it, was there? It was done time and time again. Are you questioning his courage to do it?

MR. BURKE: How many questions is this, Your Honor? There are two questions at least.

THE COURT: I will sustain the objection.

Q. Have you questioned his courage to do it?

A. Shall I answer that question? I believe he has some courage, but I believe also there are quite a many things intermingled with that courage.

MR. BILL: That is all.

THE COURT: Anything further, Mr. Burke?

MR. BURKE: No, Your Honor.

THE COURT: Step down, Doctor.

* * * * *

JUNE 25, 1957. 4:30 P.M.

THE COURT: Bring up the accused, Sheriff.

(Accused present.)

THE COURT: May I have the alternates and the jury?

(Jury and alternates present.)

THE COURT may proceed when you are ready, Mr. Bill.

MR. LaBELLE: Mr. Hyland.

JOHN G. HYLAND, a witness called by the State, having been sworn by Mr. Coburn, testified as follows:

BY THE ASSISTANT CLERK:

Q. Your full name? A. John G. Hyland.

Q. And your address? A. 73 Ridgewood Road, West Hartford.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. What is your occupation, Mr. Hyland? A. Vice president of the Hartford Despatch & Warehouse Company.

THE COURT: May I suggest that we'd like all these ladies and gentlemen to hear you. Go right ahead, Mr. LaBelle.

Q. Do you have with you the personnel card pertaining to Arthur Culombe? A. I do.

Q. May I see it? I ask you if that is a record card that pertains to Arthur Culombe that is kept in the regular course of the business of your company? A. It is.

Q. And is it the duty of your company to keep that record in the course of its business activities? A. It is.

Q. Is that the personnel card that pertains to Arthur Culombe, who was employed by your company?

A. Right.

MR. McDONOUGH: Are you offering it, Mr. LaBelle?

MR. LaBELLE: I offer it.

MR. McDONOUGH: No objection.

THE COURT: May be marked Exhibit QQ in case 21,666.

(Personnel record card of Arthur Culombe received in evidence and marked "State's Exhibit QQ, Case No. 21,666.")

Q. I show you State's Exhibit QQ and ask you, Mr. Hyland, referring to that exhibit, when was Arthur Culombe hired by your company? A. December 14, 1953.

Q. And when he was hired what was his rate of pay?

A. The Union contract, I believe, at that time was $1.57 per hour.

MR. McDONOUGH: May I have that answer read, Your Honor?

THE COURT: Surely. Read it, Mr. Burke.

(Last answer read by reporter.)

Q. Was Arthur Culombe steadily employed by your company? A. He was.

Q. Until recently? A. He was.

Q. Did his rate of - Withdraw the question. Was there a change in his wage scale since he was employed?

A. There was a change in his rate scale on 4-12-55.

Q. How much was that? A. $1.72.

Q. Is that $1.72 an hour? Was there a change after that? A. 4-11-56, $1.87.

Q. On February 23, 1957 what was his rate of pay? A. 1.87.

Q. Now, that rate of pay was for how many hours per week? A. Forty hours per week; eight hours per day.

Q. Eight hours per day? Was there a contract with the Union pertaining to overtime? A. Overtime after eight hours in one day, or whichever is the greater, forty hours a week.

Q. What type of employment was he doing? What was his classification? A. He was a freight handler, unloading freight from railroad cars and trucks.

Q. Were you familiar with his record of employment? A. I was.

Q. Did you know him while he was employed? A. Did I know him while he was employed?

Q. Yes? A. Yes, I did.

Q. What kind of an employee did you find him to be? A. Good employee.

Q. How was his work in so far as your company was concerned? A. Good work.

Q. I ask you if you have the earning records of Arthur Culombe? A. I do.

Q. Are those records that are kept in the regular course of business of your company? A. They are.

Q. And it was the duty of your company to keep those records in its regular course of business? A. They are.

Q. Are those the originals? A. These are a duplicate, I believe.

Q. Are they a carbon copy? A. It looks like a carbon copy.

Q. Are those the payroll records that are kept by your company? A. Those are the payroll records that are kept by our company.

Q. What are those three sheets that you have? What period do they cover? A. 1954, 1955, and 1956.

Q. You do not have the payroll records with you for 1957? A. No, we haven't.

MR. LaBELLE: I offer those, Your Honor.

MR. McDONOUGH: May it please the Court, I don't believe I'll seriously object, but I'd like to inquire of the State the purpose.

THE COURT: What is the purpose of this offer, Mr. LaBelle?

MR. LaBELLE: It shows his ability as a worker and his earning capacity and his ability to make a living in society.

MR. McDONOUGH: I won't object.

THE CQURT: They may be marked Exhibit RR, in 21,666.

(3 sheets of payroll records of Arthur Culombe received in evidence and marked "State's Exhibit RR, Case No. 21,666.".)

Q. Mr. Hyland, referring to State's Exhibit RR, in January of 1954, take any week ending in January, what were his gross earnings? A. Well, let's take the week of January 16th.

MR. McDONOUGH: What year?

MR. LaBELLE: 1954.

A. $82.81..

Q. And his net take-home pay? A. $73.15.

Q. Take a week in March, 1954. Give us his gross pay for some week. A. 3-20 of the same year, $78.88. $71.00 take-home.

Q. Now go to 1955. Give me one in April.
A. April 9th, $81.98; $75.04.

Q. Give me one in October, 1955. A. 10-1, $60.64; $57.73.

Q. Now, go to 1956 and give me one in July.
A. July 14th, $95.02; $93.39.

THE COURT: 93 -

THE WITNESS: - .39.

Q. Give me one in November, 1956. A. 11-17, $82.28; $79.34.

Q. From the records of your company, Mr. Hyland, what was Arthur Culombe's record of attendance at his work? A. Good attendance.

Q. Did he lose very much time by absenteeism for any particular reason? A. No; steady employee.

MR. LaBELLE: You may inquire.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. Was his work brain work? A. I didn't hear the question.

Q. Was his work brain work? A. I didn't hear it.

Q. Mental work or laboring work? A. Laboring work.

Q. He was on what is known as a bull gang, isn't that right? A. Well -

Q. Among teamsters and truckers aren't men of that type known as working on the bull gang? A. Years back; but we have machinery for that now.

Q. But that's an expression used for that type of work, isn't it? A. That's right.

Q. And that's the kind of work that he did?
A. Unloading -

Q. Bull, laborious work? Hard work? Isn't that right?
A. Yes.

Q. And he was paid according to the Union rate, wasn't he? So he got paid, Mr. Hyland, for his time and his hard work, isn't that right?

THE WITNESS: What?

THE COURT: Will you say it out loud?

A. He got paid for his work just like he performed services working for the company.

Q. And he had a man telling him what to do, help unload this truck, or help unload that car, and he would do it, isn't that right? A. Correct.

MR. McDONOUGH: Thank you, Mr. Hyland.

THE COURT: You may step down.

EARL H. ALLEN, a State's witness on rebuttal, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Earl H. Allen.

Q. Your address? A. 87 Henry Street, Windsor.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. What is your occupation, Mr. Allen? A. I am a foreman at the Hartford Despatch in East Hartford.

Q. In the course of your duties did you come to know Arthur Culombe? A. Yes, I did.

Q. How long have you known him? A. Oh, since 1954 when he first came to work.

Q. What was your connection with him in your work?
A. I was his supervisor and foreman - I told him what to do.

Q. Were you his foreman during all the time he was employed by your company? A. I was, yes.

Q. And he was employed until when? A. Just recently.

Q. Would it be February of this year? A. Could be, yes.

Q. Tell the Court and jury what your observations of him as an employee were and how he did his work?
A. I would say he did a very good job; he never gave me any trouble, was always on time, always willing to do a little bit extra for you.

Q. Was he able to carry out instructions?
A. Yes, he carried out instructions.

Q. In connection with the work he might have to do?
A. Yes.

Q. Was there any difficulty in his carrying out your instructions? A. No.

Q. How would he carry out orders, in what manner?
A. It was a labor type of job and he would go right into it like any average man we had over there.

Q. Any difficulty with him as an employee?
A. No difficulty.

Q. How was he as far as attendance at work was con-

cerned? A. He was there every day to be right there on the job.

MR. LaBELLE: You may inquire.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. He was a good man, in other words? A. Yes.

Q. And when you told him to help unload that work he would go ahead and unload it? A. Yes.

Q. Or any other labor work you had? A. Yes.

Q. He was a man who couldn't read or write, you knew that? A. Well, I didn't know that until he was there quite some few years.

Q. But you found that out? A. Yes.

Q. And he did hard laboring work, and he was on the job every day, isn't that so? A. Yes, sir.

MR. McDONOUGH: That is all.

MR. LaBELLE: That is all we have tonight, Your Honor.

THE COURT: Ladies and gentlemen of the jury, I am going to excuse until tomorrow morning at ten o'clock with the usual instructions. You will talk about this case to no one or allow anyone to talk to you about it. Should there be anything in the newspapers you will not read it, or if there is any comment on the radio or television ignore it, and when you report tomorrow morning, report to your respective rooms.

(Accused escorted from the courtroom)

(Adjournment at 4:46 P.M.)

WEDNESDAY - JUNE 26, 1957

THE COURT: Bring up the accused, Sheriff.

(Accused present in the courtroom at 10:16 A.M.)

THE COURT: May I have the jury and alternates, Sheriff?

(Jury and alternates seated at 10:20 A.M.)

THE COURT: Good morning, ladies and gentlemen. May I say to the jury now so that I won't forget it, that if you desire to come in without your coats at anytime during the day or further progress of this trial you may do so.

Are you ready to proceed, Mr. Bill?

MR. BILL: Yes, Your Honor. Doctor Bancroft?

HAROLD A. BANCROFT, a State's rebuttal witness, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Harold A. Bancroft.

Q. Your address? A. Farmington, Connecticut.

DIRECT EXAMINATION BY MR. BILL:

Q. What is your profession? A. I am a Doctor of Medicine.

Q. And a psychiatrist? A. I specialize in psychiatry.

Q. For how many years? A. Well, it's well over thirty.

Q. What is your medical background and education, Doctor? A. I am a graduate of the Albany Medical College. I attended training at the Albany Hospital in Albany, New York. I was then at the Hartford Retreat, now known as the Institute of Living.

Q. How long were you there? A. From 1916 until 1923 excepting for a period of service in the Medical Corps of the United States Army during the other war.

Q. Did you do psychiatric work in the Army?

A. I did, I was sent to the United States Disciplinary Barracks at Fort Leavenworth, Kansas and spent seventeen months there in the Department of Sociology and Psychiatry.

Q. I think you got as far as having spent some time at the Hartford Retreat up to 1923 - and what happened after that? A. I went into private practice.

Q. Have you been in private practice ever since?

A. I have.

Q. Starting in 1923? A. Yes, sir.

Q. Along with your private practice, have you also made examinations and reports to the Courts in connection with criminology, Doctor? A. I have.

Q. And what connections have you had in that respect? A. Well, for over thirty years I have been examining for the Hartford City Police Court and I have examined persons accused of crimes in New Haven County, Windham County, Tolland County and Hartford County.

Q. Have you for some years been requested by the State's Attorney's office to examine psychiatrically accused that are charged with crime? A. I have.

Q. Have you been called by different attorneys at various times about the State? A. I have.

Q. And have you on many occasions been appointed by the Court as a member of a commission to examine accused? A. I have.

Q. And as to their mental capacity? A. Yes, sir.

Q. Now, Doctor, what medical organizations or societies are you connected with, if any? A. Well, the usual societies - Forensic Sciences.

Q. Did you at sometime examine psychiatrically Arthur Culombe? A. I did.

Q. And when was that? A. I examined Arthur Culombe on March 2, 1957.

Q. And where? A. At the Hartford Barracks of the Connecticut State Police.

Q. Were you alone in the examination or in the company of somebody else? A. I was not alone - I was accompanied by Doctor Chester Waterman.

Q. Is he a psychiatrist? A. Yes, sir.

Q. And where does he reside? A. In Middletown or Portland, I believe.

Q. Now, in connection with that examination, who was present - just you and the other psychiatrist and Culombe? A. That is right.

Q. Have you notes in respect to your examination?
A. I have.

Q. And will you examine those notes and first tell us what was the commencement of this examination?
A. Well, the commencement was the obtaining of a past history.

Q. And will you tell us what you found - is that in the form of questions and answers of the accused?
A. Yes, sir.

Q. Will you tell us what you found in relation to his past history? A. He gave us social data to the effect that his name was Arthur Joseph Culombe, that he lived at 20 Coleman Drive in Hartford; that he was born in Fall River, Massachusetts, on the 28th day of February, 1924; that he had been in Connecticut since 1941; that he was a freight man at the Hartford Despatch and Warehouse Company and that he had been married fifteen years.

Q. Did you question him on his past history?
A. I did.

Q. And what did that consist of? A. Well, we inquired about his education.

Q. First off, before you get into that, can you remember or from your notes testify or describe how Culombe appeared to you at that time? A. He was thick set - a thick set man, blunt features, calm attitude, little play of facial expression, responsive and cooperative in a rather vague way.

Q. Will you go into the past history, please?
A. He stated that so far as he knew, he had been strong and healthy as a boy; that he had no operations, that he had gone to school until he was about sixteen; that he received low grades due to "skipping"; that "I didn't have my mind on school"; that he had reached the third grade in Fall River and had been in the special third grade for fellows slow in learning. He stated that after he had stopped school, he worked in bowling alleys about a month and then he became involved in trouble; that this was a matter of theft of a car with another fellow; that he was in court in Brockton, Massachusetts; that he was sent to Bridgewater State Mental Hospital where he remained thirty days, after which he was taken back to the high court and that he then was sent to the Wrentham State School for Boys where he remained about two years; that while he "wandered away a couple of times"; that finally "they didn't bother with me anymore". He remembered that he then came to Hartford, Connecticut - that it was about 1941 and that he had been in Connecticut since; that he had married about six months after coming to Hartford. He stated he worked as a dishwasher in restaurants at first, remembered being in the Star Lunch, later at Longley's Lunch and also the Dunwell Diner, which he said was across from the Bond. He stated he continued at this work until 1944 and then "got in

trouble". He stated that as a result of the trouble he was sent to the State Reformatory for about eighteen months on a charge of breaking and entering and theft. He stated that after release he returned to work in the restaurant washing dishes, remaining in this position about one year and that from then until 1950 he worked in about seven other restaurants in the same capacity. He remembered being at Barbee's Luncheonette and the Little Ritz and he remembered being back at Dunwell's Diner again.

He said about 1950 he obtained employment at the Maxim Silencer Company where he was a helper working on grinders and filing, that he remained there two or three years, and that he got sick of it because it was the same old work and quit. He stated he was then idle for a time but looking around for a job, but that before he found work - "I got mixed up with fellows". He explained that in company with others he "held up places and got caught". He thought this was 1950 or 1951. He said he was sentenced to the Connecticut State Prison for two to four years on a charge of robbery with violence; that he served thirty months; that when released he went back to work for the Hartford Despatch and Warehouse Company. He thought this was about December, 1953. He stated he continued at this job, that he had been there about three and a half years and until his recent arrest; that he earned about seventy-six dollars after deductions weekly. He estimated that the last day he had worked at the above place was about one week ago yesterday.

Q. Did you ask him about his habits, Doctor?
A. I did.

Q. What was the result of that?

MR. McDONOUGH: I didn't get that question?

THE COURT: Will you read it, Mr. MacGlashan?

(The reporter read the last two questions.)

THE WITNESS: He stated he drank a little, and asked to explain how much, he said "A couple of beers and a couple of shots of whiskey two or three times a week". He estimated he became drunk perhaps once or twice a week. He believed that the above amount of liquor made him feel cheerful. He denied the use of marijuana or products of any kind of the so-called drugs or involvement in the selling of any drugs.

Q. Did you question him about his past medical history? A. I did.

Q. And the results of that examination- A. He denied having any serious illnesses, but when asked if he had any venereal diseases, he stated that he thought he had had - I am substituting another term for the word he used - that he had had a social disease a few times.

Q. Did you go into the question of his recreation? A. I did.

Q. What did you find from that? A. Well, he stated he enjoyed playing baseball and football and basketball and swimming when young, but that after he was eighteen years old "it was just work".

He stated that he had had the usual interest in girls, he had gone out with two or three girls although not steadily before he was married. He denied any abnormal means of sex gratification.

Q. Did you learn about his family life? A. He stated he had married after an acquaintance of about six months, described his wife as a nice decent girl, he thought he could settle down with her and go straight, but he added "it didn't go that way". He claimed that the marriage had been satisfactory, that he and his wife had been compatible in their sex relationship, and that he had two daughters one, Jo Ann, aged thirteen, who recently had the mumps

but otherwise was well, and another, Sandra, aged five, well so far as he knew. He stated he had been living with his wife at their home until his arrest.

Q. Did you find out whether or not he was literate or illiterate? A. I asked him if he could read and write and he said he never could read or write. We asked him if he could sign his name and he said he could and on requesting him to sign his name, the writing was poor but it was legible.

Q. Did you find out anything about his family history from him? A. I did.

Q. What was it? A. He stated his mother was alive and well, about forty-five years old, that his father George was alive and well so far as he knew; that he was a roofer and living in Fall River, Massachusetts, and a man who likes to drink, that he had three brothers, George, thirty-five, married, a machinist, and apparently settled down in life; and Edward, twenty-two, single, who had worked at odds and ends, not steady, that he had been in few odds and ends of trouble but not serious, not in jail - for breaking in.

He stated that he had a third brother Norman, who was about nineteen or twenty, single, and about ready to enter the Navy. He had one sister whose age was "right after me, about twenty-seven", who was married and living with her husband. He knew of no mental or nervous diseases in any of his relatives. He claimed that he got along very well with his parents but he said that he had some fights with his brothers.

Q. Now, did you go into his past trouble and arrests since the time that he was a boy? A. I did.

Q. And will you relate what he told you there?

A. When asked he stated that in 1939 he had been arrested -

MR. McDONOUGH: I object.

THE COURT: Do you claim this, Mr. Bill?

MR. BILL: It is matters, I understood, that were brought up on the direct by Mr. McDonough, and I was covering his past boyhood history that he covered. I didn't intend to bring out anything that he had not. If he thinks that it is repetitious -

MR. McDONOUGH: No, I don't think that, but I thought that he was going up to the present time. I went through the boyhood history and I think that the State's Attorney should stop there, and apparently he is going to, so I will withdraw the objection.

THE COURT: Very well.

Q. Doctor, will you confine your -

MR. BILL: Before I ask the question, Mr. McDonough, would that take us up to 1941 when he came to Hartford?

MR. McDONOUGH: That's right, up to leaving Wrentham.

MR. BILL: After he left Wrentham?

MR. McDONOUGH: When he left there.

Q. Confine yourself to that, Doctor. A. Yes, sir. He stated that in 1939 he had been arrested in Brockton, Massachusetts for theft of an automobile and disposed of as mentioned previously. I had mentioned that as part of the facts that he gave me before. He also stated that "Before that there was a couple breaks", and that he had been sent to the Lyman School for Boys, where he remained about six months and where he had "Little odds and ends of difficulty." He explained these difficulties were scraps with other inmates or because "I'd take off." He thought that he was about thirteen or fourteen years old at that time.

Asked what else, he estimated that after leaving the Lyman School for Boys he had been in trouble three or four times for "just broke and stole." When asked, he stated that he stole cigarettes and saws and tools. In response to a question he explained that he "Got in with the same gang again", and was sent to the school again and that he thought that he was at the school eighteen months at that time. He stated that after he was out and when about sixteen he took the car in Brockton.

Q. Then he came to Hartford, is that right?
A. There were no more until he came to Connecticut.

Q. Now, Doctor, did you discuss with him the episode in New Britain at Kurpiewski's Gas Station?

MR. McDONOUGH: I object.

MR. BILL: I claim it.

THE COURT: I will let him answer either "yes" or "no" anyway.
A. I did.

MR. McDONOUGH: I would like to know the purpose of that question. It wasn't within the defense at all.

THE COURT: Well, I would allow the question to stand as a fact that he did talk to him. That's all as of now.

Q. And what did he say?

MR. McDONOUGH: I object.

MR. BILL: I claim it.

MR. McDONOUGH: There is nothing in Culombe's defense about the New Britain incident at all. It wasn't even mentioned. I don't know what the State's Attorney is trying to rebut.

THE COURT: What is the purpose of it?

MR. BILL: Of course, this is a mental examination. It is to find out whether this man knows right and wrong, particularly in the question of the crime as charged and the incidents that took place as related, and all the things that the psychiatrist has to use to judge from, and the question of whether he had the mind and capacity to understand the act, and that's all, and that's what we are here for, this particular case, to learn of his mentality.

THE COURT: I know that you know this, Mr. McDonough, but when it comes to the question of sanity, which the State has the burden of proving, the objection that it is not rebuttal in itself is not necessarily a valid objection because under our procedure, as you well know, there is a presumption of sanity that the defense has, if they desire, and you have raised that defense, I take it, of his mental incapacity?

MR. McDONOUGH: Yes, Your Honor.

THE COURT: Now, I take it that the State is in the position of offering evidence to prove the sanity, so the fact that it is not rebutting anything is not necessarily, would not necessarily make it excludable.

MR. McDONOUGH: No, but this is outside of the scope that was offered by the defense now. It leaves this also an erroneous foundation if the State wants this question to stand upon. The State's Attorney's statement alone to the Court, he is offering this for so and so, this question is now for the jury to determine what happened in New Britain, he isn't offering any defense as to that New Britain situation at all. He hasn't even, except for his plea, offered a denial. Now the State is offering to produce a conversation relating to that New Britain matter. They are going too far, if it may please the Court.

MR. BILL: Your Honor, this isn't offered in proof of what took place down there.

THE COURT: No, I know that it isn't.

MR. BILL: It is put in there so that the Doctor can judge the mental competency or incompetency of this accused, and as Your Honor stated, I am not confined to what Mr. McDonough put in as to the mental capacity. In the case itself for the defense I was confined to questions and answers on his mental capacity because that is all that he put in. I couldn't go into the general offense and I didn't do it. But now I am meeting mental examination and evidence with his testimony and I am not confined to what he had to say about it.

THE COURT: The Court agrees with everything that you said, substantially, but the fact is in evidence that he talked about the New Britain incident. Now you are asking that the witness be allowed to testify as to what he said about that. I agree with Mr. McDonough. I will sustain the objection.

Q. Did you learn from Culombe that he was acquainted with Joseph Taborsky? A. I did.

Q. Did you learn from Culombe whether or not they had associated with each other?

MR. McDONOUGH: I object.

THE COURT: I'll allow him to answer that "Yes" or "No".

MR. BILL: I will withdraw the question.

Q. Doctor, did you come to a conclusion from your examination as to the category of mental status that Culombe was in? A. I did.

Q. And what is it? A. I consider him to be a mental defective of the grade of high moron.

Q. Did you determine whether he knew right from wrong? A. I did.

Q. And what was your conclusion? A. I concluded that he did know right from wrong.

Q. Did you conclude, make a conclusion as to the question of whether he is psychotic, which I understand is another expression for insane, or not psychotic?

MR. McDONOUGH: I object to the form of that question.

MR. BILL: I will withdraw it.

Q. Did you come to any conclusion as to whether he was psychotic? A. I did.

Q. And what was your conclusion? A. I concluded that he was not psychotic.

Q. And when you say "not psychotic", what do you mean? A. For purposes of the courtroom I mean that he was not insane.

MR. McDONOUGH: I object to "for purposes of the courtroom". I object to the form of the answer and move to strike it out, "For the purposes of the courtroom."

THE COURT: May I hear the answer?

(Last answer read by the reporter)

THE COURT: I will strike out the words "for the purposes of the courtroom." The jury will disregard it. I'll allow the rest of the answer to stand.

Q. Is there another terminology or expression for the word "psychotic"?

A. "Psychotic" is a technical term that the medical profession uses.

Q. What does it mean? A. It means very serious deep seated mental illness in which a person is so divorced from reality that he is unable to make adjustments to

reality, is incompetent and requires restraint in some kind of a mental hospital.

MR. McDONOUGH: May that answer be read, Your Honor?

THE COURT: Will you read it, Mr. Burke.

(Last answer read by reporter)

Q. Is being psychotic - that's withdrawn. Are "psychotic" and "legal insanity" synonomous?

MR. McDONOUGH: I object. That is for the Court - the Court will charge the jury as to the law, and the jury will find the facts in accordance with the Court's instructions. Witnesses do not determine what legal insanity is. The Court and jury does.

THE COURT: I am going to sustain the objection, but not on that ground.

MR. McDONOUGH: Any ground at all suits me, Your Honor.

THE COURT: I appreciate that. But I am going to sustain it on the ground that the witness has been qualified as a psychiatrist and has not been qualified as a legal expert.

Q. Was he psychotic? A. He was not.

Q. And is he now? A. No.

Q. You said that he knew right from wrong?

MR. McDONOUGH: I object. This is repetitious.

THE COURT: Sustained.

MR. BILL: I am asking -

MR. McDONOUGH: It has been asked and answered. I object.

THE COURT: I sustained it.

MR. BILL: All right.

Q. Let me ask you, Doctor, did Culombe at the time of your examination have the mind, the capacity, reason and understanding enough to judge of the nature, character and consequence of the act charged against him, that the act is wrong and criminal and the commission of it will justly and properly expose him to penalty? A. I concluded -

MR. McDONOUGH: Just a moment. I object. Mr. Bill is reading from the Donahue case and as Your Honor has said, the witness is not a legal expert.

THE COURT: That is true. He isn't being asked for a legal opinion.

MR. McDONOUGH: It amounts to the same Your Honor.

THE COURT: No.

MR. McDONOUGH: I object to it because he is asking the witness a question based on a rule of law laid down by the Supreme Court of this State that Your Honor will probably charge the jury on. The jury will be asked to judge the facts. This witness, if allowed to answer the question will be placed in the position of the jury.

THE COURT: No, it isn't true, Mr. McDonough, and it isn't a ground for sustaining the objection. It is true that that will be the function of the jury to determine whether or not he legally has that capacity, but this witness is being asked to testify as a psychiatrist and under our rules the jury is entitled to the benefit of his opinion. What weight they give to that is for them to determine under proper instructions from the Court. I will overrule the objection.

MR. McDONOUGH: I object because the State's Attorney hasn't finished the whole statement in the Supreme Court decision. He should finish it.

MR. BILL: I can finish it by another question.

THE COURT: I will overrule the objection.
MR. McDONOUGH: Exception.

THE COURT: Do you recall the question, Doctor?

THE WITNESS: I believe so, sir.

THE COURT: Will you answer it, if you do?

A. In my opinion Arthur Culombe has sufficient mental capacity to have the necessary mind, capacity, reason and understanding to know that the acts that he committed were wrong and unlawful and justly punishable at law by serious penalties.

Q. Did you find his mind to be so diseased or abnormal as to render him incapable of resisting an impulse to do an otherwise criminal act? A. I did not.

Q. Doctor, it was noticed that in your answer, instead of answering me "yes" or "no" you repeated a phrase of your own which did not in full measure up to the question I asked you, and I would like to ask that again and get a "yes" or "no" answer.

MR. McDONOUGH: Then I want the last answer stricken out if the State's Attorney wants to ask the question again and get a different type of answer.

THE COURT: I will grant both motions and instruct the jury that the answer that the witness gave be stricken from the record and you are to disregard it in its entirety. Go ahead, Mr. Bill. Or do you want the question read?

MR. BILL: No, I'll frame it.

THE COURT: All right.

Q. Doctor, from your examination have you an opinion as to whether Arthur Culombe had the mind, the cap-

acity, reason and understanding enough to judge of the nature, character and consequence of the act charged against him, that the act is wrong and criminal and that the commission of will justly and properly expose him to penalty? A. I do have an opinion.

Q. And what is your opinion? A. That he does have all of the qualities that you just read to me.

Q. I now ask you whether or not in your opinion his mind was so diseased or abnormal as to render him incapable of resisting an impulse to do an otherwise criminal act?
A. I do have an opinion.

Q. And what is that? A. That his mind is not so diseased that he could not resist an impulse to commit a criminal act.

Q. Diseased or abnormal, the question was.
A. Diseased or abnormal. Either one or both.

MR. BILL: Your witness.

CROSS EXAMINATION BY MR. McDONOUGH:

Q. Doctor, what is insanity - I'll withdraw that question. What psychological tests did you make of Culombe?
A. I made no specific psychological test or tests such as are made by a clinical psychologist.

Q. Why not, Doctor? A. Because a clinical psychologist ordinarily makes those tests and I had the benefit of the tests made by the clinical psychologist.

Q. That was Mr. Ibelle? A. And also because with experience I was able to form an opinion as to the intellectual level of Arthur Culombe, myself.

Q. Did you receive a report from Mr. Ibelle?
A. I did.

Q. Is that the clinical or psychological test that you had the benefit of in this case? A. I beg pardon?

Q. Is that the psychologist's test that you had the benefit of in this case? A. Well, I had it for my information, yes.

Q. From Mr. Ibelle? A. That is correct.

Q. I beg your pardon? A. That is correct.

Q. Mr. Ibelle, as you know, was appointed by this Court to serve both the defense and the State, wasn't he?
A. I know that.

Q. Do you agree with Mr. Ibelle's conclusions?
A. Not entirely.

Q. Well, do you agree with the IQ given Culombe by Mr. Ibelle? A. I would not dispute it.

Q. Do you agree with the mental age that Culombe is found to have by Mr. Ibelle? A. I would not dispute that.

Q. Did you have the benefit - question withdrawn. When you saw Culombe on March 2nd, at the State Police Barracks, you were with Doctor Waterman, were you not, Doctor Bancroft? A. I was.

Q. Did you make any tests on that occasion?
A. We made a psychiatric examination, which is a test.

Q. And what was that examination? A. The evidence of the history, and finding out as to the man's state of orientation, state of his memory.

Q. And how did you determine his state of orientation? A. By asking him questions.

Q. Is that a psychiatric examination? A. That is a part of a psychiatric examination.

Q. Is that the only examination that you gave him on

March 2nd? A. A psychiatric examination is the only examination that we made March 2nd, if that answers your question.

MR. McDONOUGH: No, it does not. May the answer go out and the question be read, Your Honor?

THE COURT: The answer may go out. Will you read the question, Mr. Burke?

(Last question read by reporter)

A. I believe that I was in the midst of trying to explain the examination I made when I was interrupted by another question. I said that we asked questions to determine whether or not Mr. Culombe was oriented and to determine the status of his memory, and we asked questions and made observations as to his stream of speech and his emotional tone, we asked questions to determine whether or not he had delusions and hallucinations, we asked questions to determine whether or not he had insight into the situation that he was involved in, and in general questions about his judgment.

Q. Is that your answer, Doctor? A. Yes, that in general was the ordinary psychiatric examination.

Q. How much time, Doctor, did you spend in that type of an examination which consisted of asking questions?
A. Somewhat over two hours.

Q. About two hours? Now, on how many more occasions did you talk to Culombe? A. I saw Culombe on one other occasion, at which no psychiatric examination was made.

Q. So you haven't referred to that in your direct examination because no psychiatric examination was made?
A. No second psychiatric examination was made by me.

Q. Just this one consisting of a two hour examination? A. That is right.

Q. And on that examination you based the conclusions or have arrived at the conclusions that you have given to this Court and jury? A. That is right.

Q. And you realize, Doctor, that your conclusions after two hours are being given to this jury - to this Court and jury, to be taken with examinations that took, one in the Bridgewater State Hospital, thirty-eight days, and the other for over a year in the Wrentham State Hospital? You realize that?

MR. BILL: I object, Your Honor.

THE COURT: I will sustain the objection.

MR. McDONOUGH: May I have an exception?

THE COURT: Surely.

Q. Doctor, what is a mental defective? You have classified Culombe as a mental defective. A. Well, a mental defective is one whose mental development has been arrested since birth or early age.

Q. I didn't get the last part of the answer.

THE COURT: Read it, Mr. MacGlashan.

(The reporter read the last answer.)

Q. So you would classify Culombe as a young man whose mental development has been affected from birth or early age? A. I didn't get that one word in there - affected.

THE COURT: I will have it read. Read it, Mr. MacGlashan.

(The reporter read the last question.)

A. Well, I used the word "arrested" and I will stick to it.

Q. It is all right with me, Doctor, I have no quarrel with that. As a matter of fact, do you know, Doctor, that it began at birth with Culombe - the arrest of his mental development? A. I don't know that it began at birth or began at an early age.

Q. Well, his mother testified here, Doctor, that at birth there was a question about his mental status. You didn't know that, did you? A. No, I didn't know that anyone could determine at birth the question of arrested mentality.

Q. She testified that at birth she was told.

A. I don't think, as a doctor, one could determine such a thing at birth.

Q. Well, she testified - his mother - that after examining the baby she was told that something was wrong with this baby's brain and that it could never be right.

A. Well, if it was something obvious or a visible defect of the child's skull - a monster, so-called - I think probably a doctor could at birth inform a mother of such a condition.

Q. Well, the testimony is that through Mrs. Culombe, she was so informed, so if such a condition was obvious to a doctor and he made such a statement, it is fair to say that this arresting started at birth, isn't that so?

MR. BILL: Objection, Your Honor.

THE COURT: I am going to sustain it. There are too many ifs involved there.

Q. I think there are and I will withdraw it. If such a situation existed, Doctor, it could have been an arrest of development at birth, couldn't it? A. It could have been at birth, yes - I said so.

Q. You and I aren't quarreling up to this point and I don't think we will.

THE COURT: I am sure you will not, Mr. McDonough, just stay with the questions, please.

Q. There is evidence here that up until the time Culombe was ten years old he couldn't put his shoes on right, didn't know which foot they went on. Would that indicate anything from a mental standpoint? A. It might indicate some slowness of learning how to tie one's shoes.

Q. I think the hospital records of Wrentham State School and the Bridgewater Hospital show a dullness and a slowness. Now, at what age in the course of a normal adult or average adult is the general mental development. The reason I asked this question is that there was some testimony here from a psychiatrist that the age of fifteen or sixteen is the age at which they can determine pretty well from a psychological standpoint the intellectual standpoint the intellectual standard of that individual. Do you know anything about that? A. Well, I think in doing psychometric or psychological tests - in the early days the age of fourteen was used as the point at which maximum development was reached, and then in later years the age of sixteen was used as the maximum point at which development was reached, and I gather from what you just said, somebody testified that it was fifteen or sixteen and I wouldn't dispute that.

Q. Now, Mr. Bill asked you a question and held in his hand a book, which I believe was Volume 141 of the Connecticut Supreme Court Reports - State against Donahue, and he read to you from that book. Before you were called to testify did anyone from the State's Attorney's office call to your attention, with the purpose in mind that you knew, what he read from that book? A. No, I learned that years ago from Doctor Roy Leeke, who gave me a copy

of a report at sometime when we were examining someone in Windham County.

Q. In other words, you knew about this from some other occasion in the past what the State's Attorney read you? A. Well, I had what I thought was a correct idea of what constitutes legal responsibility for serious crimes.

Q. Well, I will read to you now a different definition of a mental defective or a person who has a low mental age, which is the test on Culombe. I will read from the Supreme Court Decisions in this State, Volume 39 page 593. Before reading it to you, I call your attention that the testimony in this case, the expert testimony, shows that the accused Culombe's mental age is between nine to ten years - nine and a half years as his mental age. Wouldn't you say that is an age that could be classified as tender years?

A. Well, if he were a child of the same chronolical age, yes, but in an adult man in his thirties, I would be reluctant to say he was a man of tender years. He has had considerable experience in the world.

Q. Isn't that mentally a child of ten years - nine and a half years? A. It is impossible to liken an adult man with an intelligence quotient of sixty with a child with a mental age - I think you said nine years - you can't liken such a person to a child of that age.

Q. Well, Doctor, a man of thirty-three with a mental age of nine and a half years - is mentally how old?

A. You said nine and a half years.

Q. Yes. A. I don't dispute that.

Q. We will drop the word "man". A. I would say he is a high grade moron.

Q. Children of tender years have some sense of right and wrong, isn't that so?

MR. BILL: I object to the use of "tender years". I don't think that is proper.

THE COURT: I will overrule the objection. You may answer.

Q. Children of tender years have some sense of right and wrong, isn't that so? A. I can't answer the question until you specify what are tender years.

Q. A child nine and a half years of age. A. Yes, I think I would say so, if they were properly brought up.

Q. Well, that is a question, perhaps - properly brought up - what do you mean by that? A. Well, growing up in a family where they were taught ethics.

Q. In an average family - not a monied or educated family? A. I hope the average family is like that.

Q. So you would say a child of nine and a half years of an average family has some sense of right and wrong, isn't that so? A. Yes, sir.

Q. And should understand that punishment will follow transgression? A. Well, they understand to some degree. I don't think a child of nine and a half would understand the legal involvement or complications.

Q. I mean punishment like a spanking? A. That is right.

Q. And if children are subjected to the discipline of their parents, generally punishments are received for some wrongdoing, isn't that right? A. Yes.

Q. But from your observation, Doctor, as an expert in your field, your age in life, don't you think your sense of humanity would be greatly shocked at the thought of subjecting those children to the penalties of our statute law because of some sense of right and wrong and fear and punishment that has been developed in them - don't you think

your sense of humanity would be shocked? A. I will have to have that again.

THE COURT: Read it, Mr. MacGlashan.

(The reporter read the question.)

MR. BILL: Objection, Your Honor.

THE COURT: I will sustain the objection.

MR. McDONOUGH: Exception.

THE COURT: Surely.

Q. You know Doctor Lieberson quite well, don't you? A. No.

Q. You know the gentlemen? A. Yes, sir.

Q. As a matter of fact, you testified as a witness in court, didn't you, in this case when we asked for the appointment to take a brain wave test and you recommended him? A. I remembered I testified here in court before Judge Bordon when there was an application made for a psychological test. I have no recollection of the testimony.

Q. Don't you recall you were called to the stand by Mr. Bill and I examined you and you said Doctor Lieberson was one of the best men in the field? A. I don't recall it - it may be so.

Q. You know the man? A. Yes, and I respect him as an authority in his field.

Q. And he did make his brain wave test and testified in court and I have his testimony here. I will read his report under impressions. "This record does not show any gross abnormality. There is no specific or focal pattern. There is mild nonspecific epileptic deviant patterns which might be related to personality disturbance. This finding might be re-investigated."

Now, would that have any connection, so far as you know or can see with Culombe as you found him during your examination?

MR. BILL: Objection, Your Honor.

THE COURT: What is the objection?

MR. BILL: The objection is that this is evidence apparently that he is quoting from the doctor and has nothing at all to do with this examination and it is not put in the form of a hypothetical question. It is put in the form of a statement concluding a fact as a finding. It is not put in the form of a hypothetical question, but he asks the question and asks the jury to accept that on facts which are not in evidence.

THE COURT: That goes to the weight of it and I will overrule the objection. Would you read the question, Mr. MacGlashan?

(The reporter read the question.)

MR. BILL: An exception, Your Honor?

THE COURT: Surely.

A. Well, it isn't meaningful to me. It is quite likely that any mental defective given an electro encephalogram might show what Doctor Lieberson reported.

Q. Now, Doctor, what is a psychosis? A. Psychosis is deep seated mental illness in which a person becomes divorced from reality. They are unable to adjust to real life or reality and are incompetent and in general they need treatment and restraint in a mental hospital.

Q. Well, what do you mean by being divorced from reality? A. Well, they are living in a world of hallucinatory experience or delusional ideas. You get away from reality. For instance, if I thought I was sitting here on Mt.

Olympus right now, I would have the right to say I was completely divorced from reality.

Q. I know you are using that as an example, but can't a person be insane without having hallucinations?

A. Yes.

Q. And without having delusions A. Well, that is debatable as to whether a person can be - you are using the word "insane". I am using it purely because you do - it is debatable whether or not a person could be psychotic. I would like to use that term if you permit it. It is debatable that a person could be psychotic without having delusions or hallucinations or some profound emotional disturbance.

Q. Well, a person could be psychotic without having delusions or hallucinations, couldn't he? A. It is possible.

Q. Now, by being divorced from reality, couldn't a man be divorced from reality and go about and do his daily work? You don't mean that, do you? A. I mean pretty much to the point of being a person who is not able to carry on in society and make the necessary adjustments.

Q. You mean that whatever they have that conflicts with society, whether or not they are unable to get rid of it and despite their daily work and taking care of their obligations, they cannot get rid of this one thing that is disturbing them? A. I don't mean that their mind, because of the rift and curbed processes - that they cannot go about their usual functions in society and observe the requirements of society.

Q. Haven't you found from your experience, Doctor, that there are many persons making their livelihood, going about their daily work, that in some respects are insane?

A. Well, I can't quite believe that there are many I have found. I have never seen anybody insane who is going about his daily work without committing some act that at-

tracted so much attention that authority of some kind stepped in and took care of it.

Q. I will call your attention to a case we tried here about a year and a half ago before their Honors, Judge Shannon, Judge Murphy and Judge Thim, in which you were a witness, the State against Guinan. Do you recall that case? A. Yes, sir.

Q. A murder case. He was certainly psychotic, wasn't he? A. Yes, he was psychotic.

Q. He shot two men and one of them died?
A. Correct.

Q. And weren't the facts in that case that he had been psychotic for sometime - several years after being released from the Army before the murder was committed?
A. He had been psychotic for sometime before he committed the murder - I don't remember how long.

Q. Well, sometime? A. Somebody had noticed something about it - I think his mother had - but nobody had done anything about it.

Q. But he had been about his daily work at the Post Office and in social activities until it broke out in the killing at the drugstore? A. I think probably that is so. I don't know how long he went on after his Post Office employment before the authorities stepped in.

Q. This trial to which I am referring took place in December of 1955 for a killing that took place about March of 1954, as I recall. Will you agree with me, approximately?
A. I haven't any idea of the dates.

Q. He was in the service, wasn't he, during the war that ended in 1945?

MR. BILL: I object to this.

Q. Isn't that so?

MR. BILL: I object to this line of questioning.

A. I don't recall -

THE COURT: Wait, Doctor.

MR. BILL: We are trying a case within a case. I think that it is all collateral, immaterial.

MR. McDONOUGH: It isn't collateral. It would be almost in the class of a hypothetical question, and I am asking the doctor a matter of fact in order to establish how the doctor - I tried to straighten it out - if he is psychotic it will break out, and I want to show that this man went for about nine years about his daily work.

THE COURT: Of course, Mr. McDonough, I take it that we are now rapidly approaching the question where my discretion will be involved. I think you are perfectly justified in going as far as you have gone, and I intend to allow this question. I think that there ought to be a terminus or we will be going into collateral matters.

MR. BILL: I move that that statement about nine years be stricken.

MR. McDONOUGH: I will withdraw the period of nine years.

Q. It is a fact, isn't it that in that case Guinan went a number of years in which he was definitely a psychotic before he broke out and killed? A. I don't know the exact time. I don't have my record.

Q. Several years? A. No, I wouldn't even know that. It was some weeks, at least, and maybe longer, but I don't think that it was nine years or seven years.

THE COURT: He withdrew that.

Q. Now, what is insanity? A. Insanity is a legal term.

Q. I know, but what is it? A. And it is for the lawyers and for the Courts, I think, to define.

Q. The doctors help quite a bit?

MR. BILL: I object to the question. I asked the question and it was ruled out as a legal term, and I had to go back -

MR. McDONOUGH: I will withdraw the question.

THE COURT: It is withdrawn.

Q. Is there a medical definition of insanity, Doctor?
A. I don't know of a medical definition of insanity. It is undoubtedly in Webster's ordinary dictionary.

Q. Well, he wasn't a doctor, was he? A. Not that I know of. He might have been a Doctor of Philosophy, or letters.

Q. He didn't write any medical dictionaries, did he?
A. Not that I know of.

Q. There are medical dictionaries, aren't there?
A. Yes.

Q. Do medical dictionaries define insanity? A. I have found that medical dictionaries do not give a very clear cut definite substantial definition of many things that are psychiatric.

Q. Well Doctor, can you as a doctor tell us whether or not the medical profession has a definition for insanity?
A. I don't know whether it has one except as doctors who go into courts in states where the statutes still embody the word "insanity". As I understand it "insanity" has been deleted, I thought it was, from our statute, and the words "mental illness" substituted.

Q. This jury is going to be asked to pass upon the sanity of Culombe. Can the medical profession help this

jury by defining "insanity"? Can you answer that question, Doctor? A. I'll try to help with an answer.

Q. What? You will try to help? A. I will try to help.

Q. That's all right. A. If required to definite "insanity", as I apparently am, I would say that insanity is a serious mental derangement rendering a person unable to order himself in his affairs with ordinary prudence, and rendering him a potential source of d. .ger to society, and in need of immediate restraint in a mental hospital where he could be contained against his will.

THE COURT: Mr. McDonough, does your examination contemplate some little time?

MR. McDONOUGH: Yes, Your Honor.

THE COURT: The accused may be escorted from the courtroom. You may step down, Doctor.

(Accused removed from courtroom)

THE COURT: The alternates may be retired to their room, the jury may retire to their room.

(Jury and alternates excused from courtroom)

THE COURT: Short recess, Sheriff.

(Recess at 11:30 A.M.)

JUNE 26th, 1957. 11:45 A.M.

THE COURT: You may bring up the accused, Sheriff.

(Accused present)

THE COURT: You may call the alternates and the jury, Sheriff.

(Jury and alternates present)

THE COURT: You may proceed whenever you are ready, Mr. McDonough.

DOCTOR HAROLD A. BANCROFT, on the witness stand:

CROSS EXAMINATION BY MR. McDONOUGH:

(Resumed)

MR. McDONOUGH: May the last question and answer be read, Your Honor?

THE COURT: Yes, read it, Mr. Burke.

(Last question and answer read by reporter)

Q. Isn't it a fact, Doctor, that the modern school of psychiatric thought has held that any definition of insanity is obsolete and meaningless? A. It may be. I don't know it. It is not used medically.

Q. Well, the mentally defective person is a sick person, isn't that so? A. No, I would say not. It is a defective person.

Q. You wouldn't say that he is a healthy person?
A. Beg pardon?

Q. You wouldn't say that he is a healthy person, would you? A. Physically healthy. He has suffered no change in his mind and his capabilities since his life began. Therefore, there is no change, therefore, I say that he is not sick.

Q. Supposing he had a diseased brain. A. I don't understand the question.

Q. Is he sick?

MR. BILL: Objection, Your Honor.

THE COURT: I will sustain the objection.

Q. Isn't it possible for a person to have a diseased brain? A. Oh, yes.

MR. BILL: Objection.

THE COURT: I will allow that question.

MR. BILL: This is not in line with the evidence that we have had.

THE COURT: I understand, it is going beyond the scope of your evidence.

Q. Doctor Lieberson's report, about which I inquired of you, indicates an abnormality or disturbance of Culombe's brain, doesn't it? A. Yes, I believe he testified that.

Q. And what could that abnormality or disturbance of the brain be? A. Well, if he couldn't explain it I can't.

Q. In other words, this is a sickness? A. No, I don't agree with you.

Q. It isn't a healthy brain, is it? A. An abnormality found on an electroencephologram doesn't necessarily in my opinion mean sickness.

Q. What could it mean? A. The abnormality?

Q. Yes. A. I think that Doctor Lieberson should have told you.

Q. Never mind what he should have told me. Can you tell us what an abnormality of the brain is? A. I can tell you various abnormalities of the brain.

Q. Tell us various abnormalities. A. A tumor the size of an orange inside one's cerebrum is an abnormality of the brain.

Q. Any other abnormalities? A. Meningitis would be called an abnormality of the brain.

Q. And what effect on the mental condition of a person have either one of these two, for example?

MR. BILL: Objection, Your Honor.

THE COURT: I will sustain the objection.

MR. McDONOUGH: Exception, please.

THE COURT: Surely.

Q. Now, is a person - I'll withdraw that. The lowest form of mental status is what, Doctor? An idiot? A. Yes.

Q. And what is the next step above? A. Imbecile.

Q. And the next one above that? A. Moron.

Q. And then the moron up, are there further steps? A. Yes. They classify them as borderline mental defectives, dull normal, and average intelligence.

Q. Culombe has been classified as a moron by the psychologist, Mr. Ibelle, and he has been classified as an imbecile by the psychiatrist at Bridgewater when he was of the age of sixteen. Having that in mind. Doctor, when a person reaches one of those stages, moron, imbecile, or an idiot, at the age of sixteen, for example, do they usually progress, or remain with the same status? A. They progress in storing up experience, but their intellectual capacity does not increase

Q. So it is safe to say that if the psychiatrist at Bridgewater State Hospital, after a thirty-eight day observation period, classified Culombe as an imbecile, that his status would remain the same outside of experience?

MR. BILL: Objection.

THE COURT: Sustained.

MR. McDONOUGH: Exception, please.

THE COURT: Surely.

Q. He has been classified as an imbecile by Bridgewater. Have you any reason to disagree with their findings, from your examination? A. I consider him a moron. That is my diagnosis. Therefore I have a reason to disagree.

Q. You won't disagree with Bridgewater that he is an imbecile, will you? A. Yes, I do.

Q. What is an imbecile? A. Well, an imbecile is a mental defective whose intelligence quotient ordinarily is between two and a half to roughly four years. I am not precise in that statement. It is the best that I can give you at this time.

MR. McDONOUGH: That's all Doctor.

THE COURT: Anything further, Mr. Bill?

REDIRECT EXAMINATION BY MR. BILL:

Q. I want to ask you about this question of classifying this thirty-three year old man in a mental capacity age group of nine to nine and a half years, as I understand it.

Does that mean to you, Doctor, that in all respects this man of thirty-three, if he is so classified -

MR. McDONOUGH: I don't get that question.

Q. - is similar?

THE COURT: Just a minute, Doctor. Read it, Mr. Burke.

(Last question read by reporter)

THE COURT: Go ahead and answer it, Doctor.

A. He is not similar.

Q. And why not? A. Well, he has increased in size. That is purely physical. He has had many years of

experience in the world, he has come in contact with many things as a man, or even as an adolescent, that he never came in contact with up to that time he was a nine and a half year old boy, he has learned many things, he has a vast amount of experience in the world due to his having lived to this age, and a boy who has lived to nine and a half years old does not have that experience.

THE COURT: Go ahead, Mr. Bill.

MR. BILL: I think that that is all.

RECROSS EXAMINATION BY MR. McDONOUGH:

Q. Well, Doctor, that experience that he has gained as a man, doesn't his history show you, falls in line with what has been found as a boy easily suggestible, easily led, dominated by others? A. Well, I would not describe Mr. Culombe as easily led, except by perhaps intimidation. He is a lusty man. He is not a fearful man -

Q. Not a what? A. Fearful as a mental defective he is more suggestible than a person of average intelligence or better. Does that answer your question?

Q. Doctor Ibelle - Mr. Ibelle, you had the benefit of his report, didn't you? A. I did.

Q. And did you use that in arriving at your conclusion? A. I had arrived at a conclusion before I saw his report.

Q. You arrived at a conclusion on March 2nd, didn't you? A. After I dictated my notes and had a chance to think them over.

Q. Doctor Ibelle in his report, which is an exhibit in this case, Exhibit 8, closed by saying - this is how he found him on March 30th, 1957, In addition to being saddled with deficient mental equipment with which he must try to cope with life's problems, Mr. Culombe is also possessed of that

character defect so frequently found in individuals of low intellectual caliber. He is enormously suggestive, thus lacking in the capacity for sufficient critical judgment, his manner of thinking, his pattern of living, and his way of behavior can all be easily influenced by others, persons closest to him. When the influences are benign, he gets along. When the opposite obtains he is in trouble." Won't you agree with that Doctor Bancroft? A. I would say, and I already have said, that as a mental defective he is suggestible. I don't think that he is a fearful man. I think that he can be intimidated, and to use his own expression "I don't have the Moxie that someone else has."

Q. In other words, if they call him chicken or tell him he hasn't got any guts, he goes along? A. No, I wouldn't say that.

Q. What do you mean by "Moxie"? A. That was his word. I think that it is an old slang expression for courage.

Q. "Guts" means courage too, doesn't it? A. I prefer "courage".

Q. And "chicken" means lack of courage?
A. I believe so.

Q. Well, what we both mean - isn't this true, Doctor - that for lack of courage, call it any name you want - he has easy suggestibility, and when the influences were bad he was in trouble, as Mr. Ibelle has said? A. Well, he lived three and a half years without being confronted with any trouble and he worked and supported his wife and three children and seemed to get along very well. He is suggestible and he can be intimidated.

Q. And do you know that after those last three and a half years a situation arose where he could be suggested to, that he now finds himself in this trouble after the three and a half years? A. Well, I think - I don't know what you

are driving at. I don't think he originated in his activities then, if that is what you mean.

Q. I am trying to fit it in more specifically with this: "When the influences are benign, he gets along - " That is, the three and a half years - "When the opposite obtains, he gets in trouble". Won't you agree with that?
A. I would say this - with benevolent influences, he gets along, as I said he did in the last three and a half years. With sufficiently intimidating malignant influences, he doesn't.

Q. That is what you mean when you answered Mr. Bill's question in reference to the many years of experience he had gained in the world - that is what you refer to - those influences? A. Well, I think that question has no relation to it because of the fact - I don't quite understand.

Q. What did you understand Mr. Bill's question to you to mean regarding his experience - what experience?
A. Well, the experience I refer to was that he was married, living with his wife, working, supporting his children and paying his bills.

Q. And those are good experiences? A. I think probably they are.

Q. But when the bad ones came along, as they have, that terminated, didn't you say, because of his easy suggestibility? A. Well, he was suggestible, and if the influence is sufficiently intimidating and malignant, he can be turned away from the path of rectitude.

Q. And that is where he finds himself today, isn't that so? A. It would appear so.

MR. McDONOUGH: That is all.

RE-DIRECT EXAMINATION BY MR. BILL:

Q And he knew those things were wrong, did he not?

A. In my opinion he knew the acts committed were wrong.

MR. BILL: That is all.

RE-CROSS EXAMINATION BY MR. McDONOUGH:

Q. Well, Doctor, on that last answer did he have the normal type of mind to judge right or wrong? Didn't he have a mind, as you say - the mind of a mental defective?

A. But he had enough intellect, even so, the average intellect to know the difference between right and wrong.

Q. Isn't it so that men are mental defective who are morons, imbeciles or idiots do not know the difference between right and wrong? A. I would say that an idiot certainly would not know.

Q. We will eliminate the idiot. A. I don't think an imbecile except the higher levels, perhaps, -

Q. Would you say an imbecile does not know the difference between right and wrong? A. No, I wouldn't say that. I would have to qualify by saying that a high class imbecile who has been given a great deal of training could be taught right from wrong. It might be elementary, but still it could be called as knowledge of right and wrong.

Q. This man here has been classified by hospital authorities, psychiatrists and others as an imbecile, and has not received, as the record shows a great deal of training. The home was good as far as it went. So he wouldn't be able to know the difference between right and wrong as you have defined it, would he?

MR. BILL: I object ,Your Honor.

MR. McDONOUGH: That is in the record.

MR. BILL: There is a difference in opinion here from your witnesses. They tagged him in different categories. That isn't a competent question.

MR. McDONOUGH: I am talking about the record which shows he is an imbecile.

MR. BILL: It doesn't show that specifically.

THE COURT: I am not much concerned with that, Mr. McDonough, but haven't we been over this field?

MR. McDONOUGH: I will tell you what I will do, Your Honor.

THE COURT: I can't make any wagers with you, but I will overrule the objection.

MR. McDONOUGH: I will withdraw it and put another.

Q. Isn't it true, Doctor, that when we say a person knows the difference between right and wrong we have got to judge that person by the mental equipment that they have, regardless of what it might be, isn't that so?

A. I don't think we have to judge them that way. Their mental equipment has something to do with their ability to know right from wrong.

Q. So that the mental equipment of Culombe has something to do with his ability to know the difference between right and wrong? A. That is right.

MR. McDONOUGH: That is all.

THE COURT: Anything further?

MR. BILL: No.

(Witness excused.)

CHESTER WATERMAN, a witness on behalf of the State on rebuttal, being first duly sworn by Mr. Coburn, testified as follows:

BY MR. COBURN:

Q. Your full name? A. Chester Waterman.

Q. Your address? A. Portland, Connecticut.

DIRECT EXAMINATION BY MR. LaBELLE:

Q. Doctor, what is your profession? A. I am a physician specializing in psychiatry.

THE COURT: I am telling you now, Doctor, the jury isn't hearing a word you say. Direct your attention to them and keep your voice up if you will.

Q. Where did you graduate from college, Doctor? A. McGill University, Montreal.

Q. What year was that? A. 1905.

Q. Where did you study medicine? A. At McGill.

Q. You graduated with what degree? A. Doctor of Medicine.

Q. You took your degree in medicine from McGill University? A. Yes, I did.

Q. When did you receive that degree? A. 1905.

Q. You are now a licensed physician in the State of Connecticut? A. Yes, sir.

Q. How long have you been licensed to practice medicine in Connecticut? A. Since April, 1923.

Q. You have specialized, have you not, in some branch of medicine? A. I have.

Q. What branch is that? A. Neuro psychiatry.

Q. And you have had additional training after your medical education in neuro psychiatry? A. I have.

Q. What training have you had? A. I spent about eighteen years in the New York State Hospital Service and about seventeen years in the Connecticut State Hospital Service. I received post graduate courses under Adolph Meyer and George Kirby and several others.

Q. Are you a member of societies - medical societies having to do with neuro psychiatric specialty? A. Yes, I am.

Q. What societies? A. A member at the present time - member of the New England Society of Psychiatrists, Past President, and also the Connecticut Society of Psychiatrists; for a great many years I was a member of the American Psychiatric Association.

Q. In the course of your professional work did you have occasion to examine Arthur Culombe? A. I did.

Q. When did you make that examination? A. On March 2 in the morning.

Q. Did you conduct that examination with Doctor Bancroft? A. I did.

Q. You were present at the examination - the examination was conducted jointly with Doctor Bancroft?
A. Yes.

Q. Would you describe to the Court and jury the attitude and manner of Arthur Culombe at this examination?
A. Mr. Culombe cooperated very well, and in fact, he appeared rather indifferent and frequently yawned. His stream of thought showed no disturbance, his replies were coherent and quite well constructed.

Q. You obtained a history from him? A. I did.

Q. You heard Doctor Bancroft testify? A. I did.

Q. I assume when he was answering the questions that Doctor Bancroft referred to that was the same history you obtained? A. It was and the questions were asked by both of us.

Q. But the answers that Doctor Bancroft has given about his past history were the answers he gave to both of you? A. Yes.

Q. Now, as a result of your examination, Doctor, did you reach a conclusion as to his mental condition?

A. I did.

Q. What was that conclusion? A. My conclusion was that he was perfectly capable of understanding the difference between right and wrong, and that he was capable of understanding the proceedings pending against him. I felt he was handicapped, but I found no psychotic manifestations.

Q. There was some discussion, was there not, as to the charge for which he is being tried here in this court?

A. Yes.

Q. And your examination had to do with the charge that is now being heard? A. Yes.

Q. Now, do you have any opinion as to whether or not at the time of committing the act that he is alleged to have committed in this matter he was laboring under any defective reason from disease of the mind so as not to know the nature and quality of the act he was doing, or if he did know it, that he didn't know he was doing what was wrong - do you have an opinion as to that?

THE COURT: Do you have an opinion - yes or no?

A. Yes.

Q. What is that opinion? A. My opinion was to the effect that he thoroughly appreciated the act. He knew it was wrong and it was subject to a penalty.

THE COURT: I am sure the jury is going to miss it. Will you read it again, Mr. MacGlashan?

(The reporter read the last answer.)

Q. Now, Doctor, do you have an opinion as to whether Culombe at the time of the commission of the alleged offense in this case had mind and capacity, reason and under-

standing enought to enable him to judge of the nature, charter and consequense of the act charged against him?

A. Yes.

Q. Also that the act was wrong and criminal?

A. Yes.

Q. Also that the commission of it would properly and justly expose him to penalty? A. Yes.

Q. What is that opinion? A. My oponion was that he had a thorough appreciation of the act, that he knew it was wrong and subject to penalties.

Q. Do you have any opinion, Doctor, as to whether or not his mind at the time of the commission of this act was so diseased or abnormal as to render him incapable of resisting an impulse to do anotherwise criminal act - do you have an opinion as to that? A. Yes, sir.

THE COURT: I wonder if he got that. Would you read that, Mr. MacGlashan?

(The reporter read the question.)

Q. Do you have an opinion as to that? A. Yes.

Q. What is that opinion? A. I don't think his mind was diseased or so defective as to render him incapable of understanding the nature of his act

Q. How about an opinion as to whether or not he would be incapable of resisting an impulse to do an otherwise criminal act - was his mind so diseased or abnormal to that extent as to resist an impulse? A. I don't think so.

MR. LaBELLE: That's all

CROSS EXAMINATION BY MR. McDONOUGH:

Q. Is his mind diseased now - do you know that, Doctor? A. Is his mind diseased now? I don't think it ever has been diseased.

Q. Did you know he was confined to State Hospital for the Criminally Insane in Massachusetts? A. Yes.

Q. Did you know their findings? A. Yes, sir.

Q. Have you read their findings? A. I have read part of them.

Q. You didn't read them all? A. No. I read all reports I got.

Q. You just saw them this morning for the first time? A. No.

Q. When did you first see those reports? A. I don't remember.

Q. You don't remember? A. Weeks ago.

Q. Doctor, are you in active practice today? A. I am.

Q. And have been for how long? A. I have been doing private practice since 1940.

Q. You are active practicing today in psychiatry? A. Yes, sir.

Q. Have you testified recently in any criminal cases? A. Yes, sir, I have.

Q. What is the most recent case? A. Corona.

Q. Where was that and when? A. Here in Hartford a couple of months ago.

Q. At a trial or a hearing? A. It was a hearing.

Q. Not a trial like that, is that right? A. That is right.

Q. How much time did you spend with Culombe then? A. A little over two hours.

Q. With Doctor Waterman? A. With Doctor Bancroft.

Q. You are Doctor Waterman, I am sorry. Did you examine the report of Mr. Ibelle, the psychologist appointed by the Court? A. Yes, I did.

Q. Do you know the I.Q. he gave Culombe?
A. On one test it was sixty and on another it was sixty-four.

Q. Did you agree with that reading of his I.Q.?
A. Yes, I did.

Q. Did you give him an I.Q. test? A. No.

Q. Did you fix his mental age? A. Yes, I approximated it.

Q. What did you approximate it at? A. That would agree with Doctors Ibelle's findings.

Q. Well, what was Doctor Ibelle's that you agreed with? A. He had an I.Q. of sixty and sixty-four.

Q. What was the mental age? A. Something over nine years, I believe.

Q. About nine and a half years, isn't it? A. Yes.

Q. And what does the fact of a man thirty-three years of age having a mental age of nine and a half years indicate to you? A. That mental age of nine and a half is based in several different ways. Some authorities believe the native intellectual ability as reaching its maximum at the age of fourteen; others at the age of sixteen.

Q. What does it indicate to you - a man thirty-three having a mental age of nine and a half? A. I think he is definitely mental defective.

Q. Can you give us the reasons for finding he is a mental defective - why do you say that? A. I say that

based upon his past history, where he was never able to learn in school, I believe he is illiterate - can't read or write - and based on Doctor Ibelle's findings and examining him.

Q. Do you know that at the age of six he had been watched - had to be watched carefully all of the time because of the dangerous situations he would walk into?
A. Yes.

Q. What did that indicate to you - as a child?
A. Well, it indicates he is mentally defective.

Q. And what does it indicate if the record shows he did not know how to put his shoes on until ten years of age, not knowing the difference between the right and left foot - what would that indicate to you? A. That would indicate mental deficiency also.

Q. Would that indicate to you that he had an abnormal mind? A. Well, when you say mental defective, that means abnormal.

Q. I didn't say that.

THE COURT: He said when you say mental defective it means abnormal.

Q. Abnormal means mental defective? A. Yes.

Q. Do you think a mental defective person can judge right and wrong as a normal person does? A. It all depends on the degree of defect.

Q. Well, he is a moron, and somebody has said he is an imbecile. What would you say as to a person of that type?
A. I would regard him as a high moron.

Q. A high moron? A. Well, yes.

Q. What is a high moron? A. Well, there is a great deal of difference between them.

Q. What is a moron? A. It is a rather high grade mentally defective.

Q. To put it in plain English, is he slightly crazy?

THE COURT: Do you want that read?

THE WITNESS: Yes.

(The reporter read the question.)

A. No, I don't think there is any evidence of psychosis.

Q. I didn't say psychosis, Doctor. Does the word "crazy" mean anything to you psychiatrists? A. No, it is used by the laity as synonymous with psychosis.

Q. It is a lay word that means a mental defective, isn't that so? A. No, I don't think so.

Q. And probably doesn't mean anything to you as a doctor, is that right? A. It means they are suffering from psychosis.

Q. Something has gone wrong?

THE COURT: I don't think you heard the answer. He said it means they are suffering from psychosis.

Q. Psychosis. What indicates a psychosis?
A. There are a great many types of psychoses.

Q. Well, we haven't heard that before. Tell us what they are? A. Well, there are about one hundred.

Q. Now, we have been here for several weeks - can you name three? A. Broadly, there are the so-called functional psychoses where there is a mental illness with no physical defect; then there are the organic psychoses which are due to some defect, alteration or change in the central nervous system, and they are sub-divided.

Q. Are there a hundred different ways of indicating a psychosis? A. Approximately, yes.

Q. Are you sure that Culombe had none of that hundred? A. He showed no evidence of any psychotic manifestations.

Q. Did you apply a hundred different tests to him to determine whether or not he had a psychosis? A. I gave him the regular psychiatric mental examination.

Q. And what was that? A. Well, to begin with his attitude and manner. The next thing that we investigate is the stream of thought or mental activity. Then we investigate whether they are oriented or not, confused, know where they are, and so forth. Then we investigate both the remote and recent memory, and then we investigate the insight. Now, all that is the direct psychiatric examination and a part of the examination is the history obtained.

Q. You spent two hours with this man in your psychiatric examination, that's right isn't it, Doctor?
A. Yes.

Q. And after two hours in a cell block in the barracks you were able to state that everything else is eliminated and this man hasn't got a psychosis? A. Yes.

Q. All right, why do you say that he has no psychosis?
A. Because he had no symptoms.

Q. What are the symptoms?

MR. BILL: Objection.

THE COURT: I'll sustain the objection.

MR. McDONOUGH: Exception.

THE COURT: Surely.

Q. I think that Doctor Bancroft said a loss of reality. Is that one? A. That is a symptom of a certain type of psychosis.

Q. That is a symptom of a psychosis? A. Of a certain type.

Q. Of a certain type? Did you test him for every one of the hundred types of psychosis?

MR. BILL: Objection.

MR. McDONOUGH: Claim it.

THE COURT: I will sustain .

MR. BILL: He asked him that once.

THE COURT: I sustain it on the ground that it is repetitious.

MR. McDONOUGH: Exception.

THE COURT: Surely.

Q. Did you test him for any of the symptoms of psychosis? A. I think that I would have to divert, Your Honor, a little bit. We are talking at cross purposes.

THE COURT: You answer the question if you can, Doctor. If it isn't clear, you say so, and we will have counsel rephrase it. Is it clear?

THE WITNESS: It is not clear.

Q. All right, you cannot answer the question when I asked you did you test him for a psychosis? A. I did.

Q. You did test him? A. Yes.

Q. And what did you use to test? Merely the questions that you have told us that you asked him? A. The investigation into the different emotional fields, memory fields, orientation and so forth.

Q. Now, Doctor, a moron you say is a mental defective, is that right? A. Yes.

Q. What is an imbecile? A. An imbecile is a mental defective also.

Q. What is the difference that brings them from a moron down to an imbecile? A. An imbecile is very much more defective than a moron.

Q. Now, Doctor, wouldn't you give, as a psychiatrist of many years experience, great weight to a hospital and a trained staff that had this man under observation for thirty-eight days, wouldn't you give great weight to their diagnosis that he is an imbecile?

MR. BILL: Objection, Your Honor.

THE COURT: I will sustain it.

MR. McDONOUGH: May I have an exception, Your Honor?

THE COURT: Surely.

Q. Do you know that he was in Bridgewater State Hospital for thirty-eight days when he was sixteen or seventeen years old? A. I do.

Q. And you know that they classified him as an imbecile, don't you? A. Yes.

Q. Do you disagree with their classification? A. I do.

Q. Why do you disagree with it? A. Because of what I found his condition to be when I examined him.

Q. You found out in two hours and reached the conclusion what took them thirty-eight days, and you disagree with it? A. Yes.

MR. BILL: Objection. That's argument.

MR. McDONOUGH: That's all.

THE COURT: I'll allow it to stand. Anything further, Mr. LaBelle?

MR. LaBELLE: Nothing further, Your Honor.

THE COURT: You may step down, Doctor. Call your next witness.

MR. BILL: We are going to proceed now with the Taborsky matter.

THE COURT: All right. You heard that statement, Mr. Burke, did you?

MR. BURKE: Yes, Your Honor, I did.

DOCTOR HAROLD A. BANCROFT, having been previously sworn was recalled by the State, and testified as follows:

DIRECT EXAMINATION BY MR. BILL:

Q. Have you the file on Joseph Taborsky, Doctor Bancroft, with you? A. Yes, sir.

Q. Now, whether or not you have examined Joseph Taborsky in a psychiatric examination? A. I have.

Q. And whether or not you examined him recently? A. I examined him March 4th of this year.

Q. And whether or not some five or six years prior to that you had examined Joseph Taborsky? A. I examined him before on January 19th, 1951, and January 24th, 1951.

Q. Now, getting down to the more recent examination, what date was that? A. Joseph Taborsky was examined March 4th, 1957.

Q. And where? A. At the Hartford barracks of the Connecticut State Police.

Q. And were you alone, or with some other psychiatrist? A. I was with Doctor Chester Waterman.

Q. And you two were with the accused Taborsky, during this examination, you two alone? A. We were.

Q. Now, what was the first approach to Taborsky when you made your examination? A. Well, our first approach was that we informed him who we were and what our function was.

Q. And then did you proceed with your examination? A. We did.

Q. And what was your observation as to his manner? A. Well, he exhibited no emotion, made no objection

when questioned, remained calm, was civil, and with few exceptions was responsive to our questions.

Q. Did you go into his past history? A. We did.

Q. And what did you find? A. Well, he told us that he had been strong and healthy as a baby, that he had never had any serious illness, that he had had an operation when nine days old for "abscess in the head and on the arm", while still in the hospital after delivery, and that he believed his birth and the operation that he mentioned had occurred at the Hartford Hospital. He stated that he began school at the age of five or six, that he reached the 9th grade when thirteen, and stopped and went "to some kind of Trade School in the Junior Republic," and he explained that he went "Because I didn't like school", and he stated that he had been truant during school days.

He said that he had been at the Republic about one year and then had been set to the Connecticut School For Boys and he stated that he went there because he didn't want to stay at the Republic and kept running away. He stated he had been at the Connecticut School For Boys for about a year and then returned to the family home in Hartford.

We learned that after this he began work at different jobs, such as plumber's helper, truck driver and other small jobs which he did not specify, and that the jobs were not for long periods of time, and that he had joined the National Guard and that the National Guard was Federalized and that he thought it was federalized in 1941 and before the war. He stated that he was in the National Guard about three months and then discharged because he was under age. He stated that he was sixteen years old at that time.

Asked what he did next, he stated that he went "to Cheshire for breaking and entering places such as gas stations", that he thought that this was in 1942, that he

remained at the Connecticut State Reformatory for one and one-half years, that he was then sent "to Wethersfield," and when asked why, he stated that he had escaped from Cheshire and had been sentenced to Wethersfield because of it.

He said that he remained at the Connecticut State Prison about four years and that he had had a five year sentence. He stated after release he returned home and worked as a helper to truck drivers and on moving vans for about ten months, that he then went to the West Coast.

He stated that he was in the State of Washington and that he worked at different kinds of jobs, one of which was in a railroad warehouse, that he was in Washington about a year and that he was arrested for burglary and sentenced to "Walla Walla" where he remained close to a year and then was released, but we learned that he was returned to the State of Connecticut to finish the remainder of his sentence in Wethersfield. He said that he still owed time. He said that the authorities came for him and he had to serve the remainder of the original sentence of five years at Wethersfield. He thought that this was in 1949. He thought that he had served one year after his return from Washington at the Connecticut State Prison and was released.

Asked what he next did, he stated he engaged in the same kind of work he had done before, that he worked steadily for about one year "I think". Asked what happened next, he stated that he was arrested in 1951. Asked what that was for, he replied "Robbery and murder". Asked if he was sentenced at the trial, he said that he was. Asked what the sentence was he replied "Death". Asked if he had been sent to Wethersfield he replied "Yes".

Further questioning revealed that he was released after being at Wethersfield over four years. Asked how he was released he replied "Through a Court decision."

Asked to explain he stated "They ruled I should have had evidence of my brother's condition at my trial." Asked what this evidence was, he replied "We thought he was insane." Asked to explain further, he said "We thought we should have been able to get him examined or get evidence of his condition in the trial." Asked what the Court's decision was, he replied "They ordered a new trial, but my brother was in the insane asylum and I couldn't have one."

After that we learned that he was released from the Connecticut State Prison "A year ago last October," and he thought that this was about October 6th, 1955. Asked if this sentence of death on a charge of robbery and murder was the Woolfson episode he replied "Yes". Asked directly if he had been guilty of that he replied "Yes". Asked if the story that his brother Albert had told in Court had been generally true, he replied that it was mostly true. Asked if Albert had driven the car in the Woolfson affair he replied "Yes". Asked if he had been the one who had gone in the Woolfson Package Store -

MR. BURKE: I am going to object to the details, Your Honor please, of this other crime.

THE COURT: Do you claim them, Mr. Bill?

MR. BILL: No, I don't claim any more than he has told now. Of course, the other doctor went into all the crimes.

MR. BURKE: He didn't go into the details.

THE COURT: That's right. I will sustain the objection. Perhaps if you would ask another question, Mr. Bill.

Q. Now, after he was released from State's Prison did you inquire then as to what he did and his activities?
A. I did. We did.

Q. And what did you find out? A. Asked what he

had done after release in October 1955, he said that he had obtained a job with the City of Hartford, on a sanitation truck and that he worked two months, that he then obtained a job with a company that he had worked for before that, that it was the Hartford Despatch & Warehouse Company, as a helper on trucks and in the warehouse, and that he had continued at this job until "This past September". Asked what he did then, he said that he left and moved to Brooklyn, New York, in September of 1956, and obtained work on moving vans and that he had married later. He stated that he married in October of 1956. Asked if he had worked steadily after going to Brooklyn he replied that he did not have steady work because "I had no senority in New York."

Q. Now, did you question him about the recent arrest or the charge that he is now standing here charged with?

A. We did.

Q. And what was the result of that?

MR. BURKE: I am going to object to this, Your Honor, the result of the questioning. Apparently he is going to testify to some kind of an admission or details about this crime.

THE COURT: I will sustain the objection. I would sustain it if that was what was called for, and it clearly might call for that sort of an answer.

Q. Well, Doctor, did he discuss with you certain incidents that occurred just prior to this arrest?

THE COURT: "Yes" or "no", Doctor.

A. Yes.

Q. And did he describe the type of incidents that they were?

THE COURT: "Yes" or "no".

A. Yes.

Q. And were those incidents hold ups?

MR. BURKE: I am going to object to this.

A. Yes.

THE COURT: Wait a minute.

Q. Did he -

THE COURT: Wait a minute, Mr. Bill.

MR. BURKE: I will ask that the answer be stricken.

THE COURT: Do you claim it?

MR. BILL: I claim it on this ground, Your Honor, and you remember my questioning of Doctor Abrahamsen, that his claim being that Joseph Taborsky went out to kill, just to kill, and it became an issue as to whether on hold ups that he discussed himself and I discussed with him and questioned him, as to whether there were any incidents where there were hold ups and there was no killing, and that was very vital in that question, and this is rebuttal.

MR. BURKE: And he said that he didn't remember discussing anything about hold ups, Your Honor. I marked that page.

MR. BILL: The issue that he raised, Your Honor, was that this man Taborsky went out to kill just for the sake of killing.

THE COURT: And not to rob.

MR. BILL: And I am going to meet that issue.

MR. BURKE: I don't see how that meets the issue; to have this doctor talk about whether or not he went out on hold ups.

THE COURT: I don't want to discuss it now, but I am satisfied that this question is admissible. I will overrule the objection. I will allow the answer to stand.

MR. BURKE: May I have an exception?

THE COURT: Surely, go ahead, Mr. Bill.

Q. Doctor, in relating at this interview with you certain incidents, did he relate incidents of hold ups?

A. Yes.

Q. Did he tell you in relation of those hold ups whether or not in each instance whether or not a man was killed - a man or men were killed?

MR. BURKE: Objection, Your Honor.

THE COURT: Just a moment, Doctor. I'll hear you, Mr. Burke.

MR. BURKE: I think, Your Honor, he is going to get a matter which is prejudicial before the jury. He is bringing in past crimes, he is talking about hold ups. That has nothing to do with the particular issue here.

THE COURT: I think that that may be true, but as I recall Doctor Abrahamsen's testimony it was that in each instance it was his opinion that this accused went out to kill, and that he did not have any associated motive such as robbery or hold up, and upon being asked several times, he said that he might have asked the question, as I remember it, but that he didn't remember whether he did or not. Now, this evidence, as I take it, is being offered to show the purpose that the accused gave to the Doctor, in rebuttal of what Doctor Abrahamsen testified to or claimed that he didn't remember, so I will allow it.

MR. BURKE: May I have an exception?

THE COURT: Yes. Do you remember the question?

THE WITNESS: No, sir, I would like it read.

THE COURT: Would you read it, please, Mr. Burke?

(Last question read by reporter)

A. Yes.

Q. Did he name any incidents where he took part in a hold up where nobody was killed?

MR. BURKE: That is objected to, Your Honor. He has gone into the general field of hold ups. Now we are getting specific crimes.

MR. BILL: That is just the issue, Your Honor.

MR. BURKE: No it isn't, Your Honor.

MR. BILL: He raised the issue.

THE COURT: I will make the same ruling. I'll overrule the objection.

MR. BURKE: May I have an exception?

THE COURT: Surely. Will you answer the question, Doctor?

A. Yes.

Q. Did he name the incidents?

THE COURT: "Yes" or "No" on that.

A. Yes.

Q. And can you name them?

MR. BURKE: Objection.

THE COURT: Mr. Burke, my ruling doesn't go that far.

MR. BURKE: I object to that.

THE COURT: I will sustain it.

Q. Did he tell you how many? A. Yes.

Q. Let's put it this way: Did he relate a number of them?

MR. BURKE: That is objected to as leading, "Did he relate a number of them".

THE COURT: Yes, I will sustain the objection on that ground.

Q. How many did he relate?

MR. BURKE: I object to it, if any he related.

THE COURT: He has already testified that he did. I will overrule the objection. You may answer. We want you to give it numerically, Doctor, not by name.

Q. This is where no killings were involved. Just hold ups. A. He mentioned five in which there was no mortality.

Q. Did he tell you about his personal habits and A. He did.

Q. And what did he state about that? A. Well, he said that he did not drink much, but when he did it was only when he was out with someone who drank. He denied that he ever became drunk. He denied ever using any kind of narcotic drugs or marijuana derivative or sedative drugs, so called goof balls.

Q. Did you question him about his health? A. We did.

Q. And his answer to that? A. He stated that he had been healthy except when a baby he had had the abscess he had mentioned before, and which I read before. He denied that ever had gonococcus infection or syphilis, he denied he ever experienced any loss or alteration of consciousness, or convulsions.

Q. Did you discuss religion with him? A. We did.

Q. And what was his answer to that? A. He stated that his mother attended Episcopal Church, that he himself

had grown up in the Episcopal Church, that he last attended church in November of last year in Brooklyn, New York and that he had been married in High Church, but that in Hartford he had always attended low Episcopal Church.

Q. Did you discuss his married life with him?
A. We did.

Q. And what did he state about that? A. He stated that he married Josephine Vecchione after an acquaintance of three months, that he had been attracted to her by her beauty and innocence, that she was about thirty-one, that she worked at an envelope company and that he had lived with her until he had been arrested. He said that he had told her of his previous record one month after he met her. Asked how he explained his absences when he came to Hartford, he said that he told her that he was working over when he came to Hartford. He stated that they had been happy together.

Q. Did you discuss with him his motivation for committing the crime that he is charged with? A. We did.

MR. BURKE: Objected to, Your Honor.

MR. BILL: Claim it.

THE COURT: I will overrule the objection.

MR. BURKE: May I have an exception?

THE COURT: Surely.

Q. And what was his answer?

THE COURT: "We did".

Q. You did discuss it with him? A. We did.

Q. Did he answer - what did you question him about?
A. We asked him -

MR. BURKE: I am going to object to this, Your Honor.

Q. I will ask you again, did you question him about his motivation in connection with this crime? A. We did.

Q. That he is now charged with? And did he explain to you his motivation?

MR. BURKE: I am going to object to this line of questioning, Your Honor.

MR. BILL: I claim it, Your Honor.

MR. BURKE: I don't see the purpose.

MR. BILL: You have already ruled on it.

MR. BURKE: I don't see the purpose of going into the motivation of this particular crime. I don't know what the State is trying to prove.

THE COURT: You mean rather than other crimes in general?

MR. BURKE: Rather than a general statement of the witness -

MR. BILL: I will withdraw the question.

Q. Did he give you the motivation of the various crimes that he committed that I have asked you about? A. He did.

Q. And what was his motivation? A. Well, he said -

MR. BURKE: I am going to object to that. I think the question is, "What did he say his motivation was?"

THE COURT: I think that is probably correct. I'll sustain the objection on that ground.

Q. What did he say was his motivation? A. He needed money and he - he needed money.

Q. He needed money?

THE COURT: Perhaps this is a good point to stop, Mr. Bill. Will you escort the accused from the courtroom?

(Accused removed from courtroom)

THE COURT: I must give you the usual instruction. You will not talk to anyone about this case or allow anyone to talk to you about it. Should it be in the newspaper and you be looking at them during the noon hour, you should not read anything about this case. Should there be anything on radio or television you will ignore it. When you come back at two o'clock the jury will go to their room, the alternates to their room, if they will. You may now be excused.

(Jury and alternates excused from courtroom)

THE COURT: Recess until two o'clock, Sheriff.

(Recess at 1:00 P.M.)

AFTERNOON SESSION - JUNE 26, 1957

THE COURT: Doctor Bancroft, you can come back on the stand.

Bring in the accused.

(Accused present in the courtroom.)

THE COURT: May I have the jury and the alternates, please?

(Jury and alternates seated at 2:07 P.M.)

THE COURT: You may proceed, Mr. Bill when you are ready.

DOCTOR HAROLD A. BANCROFT, recalled.

MR. BILL: May I have the last question and answer?

THE COURT: Do you have the last question and answer, Mr. MacGlashan?

(The reporter read the question and answer.)

CONTINUED DIRECT EXAMINATION BY MR. BILL:

Q. Did you inquire of Taborsky as to the reason for his killings? A. We did.

Q. And did you receive an answer? A. We did.

Q. What was it? A. Well, "That I needed money, and I knew that if anyone could give a description to my prominent chin, that is the main reason I shot, because if anyone said a man with a big chin, they would know, because I am the only one with it."

Asked if he meant that any survivor would bring that description by people about his chin he replied, "Yes", and he added the police would know. "That used to be my nickname a long time."

Q. Did you determine his mental status, Doctor? A. We did.

Q. I am talking about you now. A. Yes, sir, I did.

Q. Would you tell the Court and jury what you found to be Joseph Taborsky's mental status? A. Well, I found no evidence of psychosis, of any mental disease or any mental defect. He was calm, civil during examination over two hours. He was cooperative and responsive to questions with the exception that he indicated he wasn't going to mention the name of his companion in the incidents he mentioned. He was precisely oriented for time, place and person. He exhibited no signs of confusion, and when asked if he was confused, he replied, "No." Asked if he ever considered himself confused he replied, "No".

His memory was adequate, and as far as could be determined, was good. He was alert, comprehended quickly, and his answers to questions were invariably responsive and definitely expressed. His stream of speech was or ordinary speed and remained the same during the examina-

tion. He said nothing irrational. He exhibited no evidence of any hallucinatory influences. He exhibited no evidence of delusional ideas, and when questioned to bring out possible delusions by asking if he thought he had enemies —

Q. I don't claim that, Doctor. Will you go on from there - the next paragraph beyond that - the next subject matter? A. His judgment. His judgments were deliberate and good at this time. He apparently had complete realization of his present situation and evidence accumulated against him for his recent incidents, and outwardly seemed to have insight into the penalty at law. He pointed out that he had made admission of the incidents because of the appeal made to him by his mother. His mood was one of calm with distinct control of his emotions. His thought reaction suggested that he was of average intelligence at least.

Q. Did you come to any conclusion as to whether there was any mental disease or mental defect he was suffering from? A. I did.

Q. What was that conclusion? A. I concluded he had no mental disease or mental defect.

Q. Now, Doctor, from your examination, have you an opinion as to whether Taborsky had the mind and capacity, reason and understanding enough to judge of the nature, character and consequences of the act charged against him, that the act was wrong and criminal, and that the commission of it will justly and properly expose him to penalty - have you an opinion? A. I have.

Q. And in that opinion do you think he had the mind and capacity and reason to understand enough to judge of the nature, character and consequence of the act against him?

MR. BURKE: Objected to as leading. He should ask his opinion.

THE COURT: He says that it is leading, but I will overrule the objection. Answer it, Doctor, if you can.

Q. Did you get the question, Doctor? A. I would like to have it repeated.

(The reporter read the question.)

MR. BILL: I will withdraw it.

Q. In your opinion, do you think he had the mind and capacity, reason and understanding enough to judge of the nature, character and consequence of the act charged against him? A. I believe he did have that.

Q. And that the act was wrong and criminal? A. I believe that he did know that.

Q. And that the commission of it would justly and properly expose him to penalty? A. I believe he knew that.

Q. Did you think in your opinion that his mind was so diseased or abnormal as to render him incapable of resisting an impulse to do an otherwise criminal act?
A. I did not.

MR. BILL: Your witness.

THE COURT: Mr. Burke?

CROSS EXAMINATION BY MR. BURKE:

Q. Doctor, you have been testifying from some notes?
A. Yes, sir.

Q. May I have the notes, please? A. You may.

MR. BURKE: May I have a minute, please, Your Honor?

THE COURT: Surely, Mr. Burke.

Q. Now, Doctor, you have been examining, have you not, for the State and the prosecution for a long period

of time? A. Well, for several years I have examined.

Q. And would you say that a great amount of your practice is examining for the State and for the Court and prosecution or court trials? A. Well, if for the Superior Court for this County -- if that is what you mean - I would say that only a very small proportion of my work is derived from that.

Q. I mean all the courts, State Courts, City Courts and Town Courts, and Superior Courts. A. Lumping all courts together, a substantial proportion of my income is derived from such examinations.

Q. And for the most part you examine for the State, do you not? A. Yes.

Q. Now, on the day you examined Joseph Taborsky this was at the State Police Barracks? A. Correct.

Q. And were you afraid of him, Doctor? A. Somewhat.

Q. And you asked that he be handcuffed before you examined him, did you not? A. I don't think I asked that he be handcuffed. I asked an officer over there if we were going to be left alone in a room across from him at a table, and because I didn't like to be in a room alone with just Doctor Waterman and myself on one side and he on the other, because even the two of us wouldn't have been quite able to contend with him, I asked them to give us some protection.

Q. And he was handcuffed, was he not, when you examined him? A. I believe he was handcuffed to a chair or something.

Q. And were you afraid of some violent outburst, Doctor? A. Since I had examined him before and testified before I didn't know what he might do.

Q. And you thought then that he was in a condition, from your prior examination, that he might become violent? A. Well, I thought he might harbor some resentment against me.

Q. And you were afraid for what he might do, weren't you? A. I didn't get it.

Q. You were afraid of what he might do? A. I was afraid of the possibility of his clobbering one of us, if I may use that word.

Q. And did you feel he was of such a mental condition he might just do that? A. Well, yes, because any man in his position and condition might do that.

Q. Now, the fact that he was in this condition, Doctor, did that have any effect on the tests which you conducted and the results of them - your findings? A. In my opinion, no.

Q. Did you at one time examine his brother, Albert? A. I did.

Q. And for this Court? A. That is right.

Q. And in examining Joseph did you go into his background - his family history?

MR. BILL: I object to that.

MR. BURKE: Claim it.

THE COURT: I think there is a misunderstanding. I wasn't certain when you asked that question whether you referred to Joseph or his brother. Will you reframe it? I will sustain the objection.

Q. I will reframe it. When you did examine Joseph you examined into his background? A. May I ask when? I examined him in 1951 and 1957.

Q. I will reframe it. When you examined him in

1957? A. Let me have my notes and I will tell you.

Q. What is your best recollection? A. When did I examine him in 1957?

Q. Yes. A. I believe it was March 4.

Q. Yes, and at that time you went into his background - his family history? A. I would like my notes back before I answer your question. By background you mean family history?

Q. Did you inquire of him about his father? A. I did.

Q. And did you ascertain that his father was an inmate at Norwich? A. Well, he didn't tell me so. In response to questions he said his father Joseph was retired, about sixty-five years old, had plenty of operations, couldn't work, that he was a heavy drinker. Asked if his father was sound mentally he replied he was all right mentally.

Q. And is that as far as you went in ascertaining whether he was or not? A. That is correct. I considered that was adequate - an adequate answer from him about his father.

Q. You didn't attempt to contact the family to find out if there was any history of mental disease in the family? A. Well, I know that his father had been in a State Hospital.

Q. You knew that? A. Yes.

Q. And what was the reasqn for his father being sent there? A. Well, I believe the diagnosis was psychosis with amyosthenic bilateral sclerosis.

Q. Did you take that into consideration in the examination of Joseph? A. All the data we obtained and all the data we knew or I had in my mind was taken under consideration in my conclusions about Joseph Taborsky.

Q. Did you put that in your report, Doctor? A. Put what in the report?

Q. This business about his father being in the hospital? A. No, because at this examination Joseph Taborsky didn't make any reference to it.

Q. Well, you did find it out, or you knew? A. I had know it from a previous examination.

Q. But you didn't think it important enough to put in this report? A. I did not, no, sir.

Q. It does have a bearing, though, doesn't it, Doctor? A. In this case, no.

Q. Isn't it so that if there is a history of mental disease or illness in the family it is an important factor in the examination of the person? A. Well, Joseph Taborsky had no mental disease so how is it a factor?

THE COURT: You can't ask questions.

THE WITNESS: I am sorry, sir. Joseph Taborsky had no mental disease in my opinion.

Q. Is that Joseph, the father or the son? A. The one in the courtroom, and therefore, what his father had, in my opinion, was of no importance.

Q. Wasn't it a factor in determining whether or not Joseph here did have a mental disease and the ascertainment of it? A. Not as far as my opinion about him was concerned.

Q. And the fact that his father had a psychosis with other somatic diseases - that meant nothing to you in the examination of this man? A. That is correct and not with the examination of his brother when I examined him.

Q. You examined his brother too? A. I did.

Q. And what was your opinion as to his sanity?

A. I haven't my record here.

Q. You can recall it, Doctor? A. It was my opinion he was sane when he came into court.

Q. How long after that was he committed to the insane asylum? A. I don't know.

MR. BILL: I object to this line of questioning. We are getting into collateral matters.

THE COURT: I will overrule the objection and I will allow the answer to stand.

Q. You have no recollection, Doctor? A. No definite recollection. I think he was in the Connecticut State Prison maybe three to six months, but I am not sure. I don't know when he was sent to Norwich.

Q. Did you keep interested in that case? A. No.

Q. You didn't know that the Supreme Court had found him mentally diseased at the time he was in this court? A. No, sir, I didn't know it had.

MR. BILL: I object to that because that isn't what the Supreme Court found.

THE COURT: I understand and I will sustain the objection and the answer may go out. Proceed.

Q. Doctor, does a mental disease run in the family? A. Sometimes.

Q. And in this particular family there was a father and one son who suffered from a mental disease, wasn't there, to your knowledge? A. Correct.

Q. Do you feel that that particular fact would have any bearing on your examination? A. Well, it was taken into consideration, but the man had no mental disease when we examined him and therefore, how would his

brother's and father's mental condition affect him at the time of the examination?

MR. BURKE: May I have the last answer stricken?

THE COURT: Yes, it is in question form and the last part will go out and the jury will disregard it.

Q. But you didn't put anything about that in your report? A. Not in this report of this year.

Q. He also told you he suffered from a brain abcess at birth, didn't he? A. I don't think he described it that way, Mr. Burke.

Q. What did he describe it as? A. He said when he was nine years old he had an operation for an abcess in the head and on the arm. Those are his quotes.

Q. Nine years, Doctor? A. Nine days old, I mean.

Q. Did he tell you where that operation took place? A. He told us at the place where he was born and that he believed his birth had been at the Hartford Hospital.

Q. Did you check the Hartford Hospital records? A. I did not.

Q. Didn't you think it important to find out whether a brain abcess existed? A. I did not.

Q. You don't think a brain abcess would have anything to do with a mental desease? A. If he had a brain abcess at that time he would be dead at that time.

MR. BURKE: May that answer go out?

THE COURT: Yes, it may go out. I wish you would answer the question and if you don't understand it let us know and we will see what we can do.

(The reporter read the question.)

A. Not in this condition, no.

Q. Isn't it so, Doctor, that the result of any kind of damage to the brain, whether it occurs at birth or later, might well have an effect on the mentality of a person.

A. It is a remote possibility.

Q. And did you attempt to find out here that existed in your examination? A. I examined the man and found he had no mental disease.

MR. BURKE: May I ask that that be stricken.

THE COURT: Yes. It may go out. Read the question, Mr. MacGlashan.

(The reporter read the question.)

THE COURT: Answer that, would you?

A. No.

Q. Did you, Doctor, talk to his family about his early childhood? A. No.

Q. Did you not think it important to know what type of child he was you were ascertaining his mentality, or whether or not he had a mental disease? A. I did think it important.

Q. But you didn't bother to do it, Doctor? A. That's right, except from him.

Q. Now, Doctor, you have been practicing psychiatry for some time haven't you? A. Many years.

Q. And that is a young science, isn't it, as we know it?

A. Well, it is a very inexact science.

Q. And the human mind itself is a very delicate and complicated machine, isn't it? A. Quite.

Q. And it is made up of different parts or elements, Doctor? A. Yes.

Q. Like the memory? A. Yes.

Q. The intellect? A. Yes.

Q. And the conscience? A. Yes.

Q. Now, if any one of those parts is damaged or doesn't operate properly would that person be considered to have a mental disease or mental illness? A. Depending up degree, he might or he might not.

Q. Let's take that part which I think you fellows called the super ego. The conscience, I call it. Suppose a man was found not to have a conscience or a super ego, would not that be considered a mental disease? A. You are now getting into psychoanalytical psychiatry. If you want to pursue it, all right. I think if you pursue it -

THE COURT: Doctor, all you are supposed to do is answer the question he asked, if you can. When you get through he will move to strike it out and I will have to strike it out. Do you remember the question?

THE WITNESS: No, sir.

THE COURT: Will you read it please, Mr. Burke?

(Last question read by reporter).

A. My answer is "no".

Q. Wouldn't it be true, Doctor, that a portion of his mind would be crippled or not working if he had no conscience? A. If a man had no conscience he might not be mentally diseased, but he might be a criminal.

Q. Isn't it also true that he might be mentally diseased, or mentally disabled, without a conscience?

A. Well, if he were mentally diseased he might have no conscience.

Q. Now, in determining whether or not there is the existence of what we call a conscience, how do you in your tests arrive at whether or not a person has such a thing?

Do I make myself clear? I'll start again Doctor. How do you determine whether or not a person does have a conscience, that is working or not working? A. Well, by finding out in general what their attitudes are in the ethical spheres, and about their behavior during life.

Q. And do you also examine and question into their relations with other people? A. That is in relation with what, may I ask? The question I have lost.

THE COURT: Will you read the question, Mr. Burke please?

(Last question read by reporter)

A. We do, and if possible, to find out about behavior.

Q. And did you in this case? A. No, I depended upon my knowledge supplied by Joseph Taborsky.

Q. Had you finished?

THE COURT: Yes, he had finished. Go ahead, Mr. Burke.

Q. Now, you had the advantage of Doctor Ibelle's report, did you not? A. Yes.

Q. And your findings as you made them in your report here were based on your examination as of April 4th, 1957, correct? A. I don't think that it was April 4th.

Q. I mean March 4th? A. March 4th. They were based on my observations of March 4th, 1957.

Q. Yes. So that your conclusions as of March 4th, 1957 were the same as your conclusions today after having had the advantage of Mr. Ibelle's report? A. That is correct.

Q. Now, you said in your examination of March 4th, you did not go into the phase of his relationship with

other people? A. Except through what he, himself, told me.

Q. And you did not at that time either go into or find out from his family as to his early life? A. That is correct.

Q. Don't you think, Doctor, that the manifestations of a child show or are some indication as to the mental fitness of that person as he grows up? A. If I got an accurate supply of information of this person during his development from infancy on, it might be meaningful, yes.

Q. But you didn't get or you didn't check into that, did you, Doctor? A. I did not.

Q. Now, in Doctor Ibelle's report he stated that Mr. Taborsky displays both a distorted sense of value and a distorted knowledge of what makes others behave just as they do. Did you inquire, or in your inquiry did you discover that to be true? A. I learned enough from him to find that he had a - you might call it warped viewpoint of ethics.

Q. Now, is that a factor in determining the mental illness or mental incapability of a person? His ideas, Doctor? A. Ideas that are expressed that are pathological are, but I noted no ideas that were pathological.

Q You didn't note any? A. I noted none.

Q. You noted none? A. I noted no ideas that I considered pathological.

Q. After you read Mr. Ibelle's report did that in any way influence your opinion? A. No.

Q. Not a bit? Now, Doctor Ibelle also reported that he found - I'll read you this. Paragraph 1, I guess, on page 2, of State's Exhibit OO. "In part the examinations administered to this person were given in an effort to rule out

intellectual deficit due to some sort of organic brain condition. The results are equivocal and any definitive statement must come from neurological examination." Did you find any intellectual deficit to exist when you examined?
A. I did not.

Q. Did it in any way affect your opinion, Doctor, after you read this report of Mr. Ibelle? A. You mean the last statement that you read?

Q. Yes, that statement. A. No, it did not affect my opinion.

Q. It didn't affect your opinion. And he states: "The weight of evidence here is heavily for a functional and against an organic explanation of any noted deficit." Did you in your examination discover or go into that? A. I don't understand what your question is.

Q. Did you go into the intellectual deficit which Mr. Ibelle found? A. I didn't find any intellectual deficits.

Q. And after you received his report you didn't at all - It didn't affect your opinion at all? A. No.

Q. Your opinion remained the same as it was on March 4th, is that right? A. That is right.

Q. Now, Doctor, what tests did you give to Joseph Taborsky here which led you to the conclusion that he knew the consequences of his act? A. Give me back my record, please. Well, he was asked if he felt justified in committing what he committed. Now I am substituting "What he committed" for what he actually had been asked about. And he replied "No", meaning that he was not justified. Asked what the term for shooting and killing somebody was, he replied "Murder". Asked if he knew what the penalty for murder was, he replied "It could be life imprisonment or death in the electric chair in Connecticut."

Q. Did he specify which of the two he preferred?
A. No, we didn't ask him that.

Q. May I have it back? A. Sure.

Q. Now, you read Mr. Ibelle's report, didn't you? A. I did.

Q. And you read where he said "In none of these stories" - after he gives this test - "are the consequences of the act spelled out, and indeed, through the tap time perspective in terms of the future he is absent." Doesn't that indicate to you that he doesn't have a knowledge of the consequence of his act? A. No.

Q. Doesn't it indicate to you that Mr. Ibelle found that? A. I don't know what Mr. Ibelle found or thought, as you read it, but it doesn't indicate to me that he did not know the consequences. This was during the process of testing, I assume. He was asked certain questions depending upon ethics, and his answers to those questions probably were those of a person who had few scruples and a lack of ethics so far as honesty was concerned.

Q. Did that show a lack of appreciation, then, of what was right and what was wrong? A. No. To me it just shows that the man is inclined to criminal act.

Q. And it would not show any manifestation of his inability to determine right from wrong? A. Not in my opinion.

Q. Doctor, did you examine to find out whether or not Joseph suffered from a psychosis of any kind? A. You mean at the time that we examined him did we inquire to find out if he suffered from a psychosis? A. Yes, the examination was conducted to see if he had a psychosis or if he didn't have a psychosis.

Q. And what was your finding? A. My finding were that he had no psychosis.

Q. And how many different types of psychosis are there? A. How many types.

Q. Yes. A. There are many.

Q. And do they take the form of functional as well as organic? A. Well, practically all of the psychoses are functional illnesses.

Q. And did you give tests for all of them? A. The tests that I gave were to determine whether or not the man had a psychosis or whether he did not.

Q. Well, you tell me that there are many types of psychoses. Is the same test used for all of them?

A. Pretty much so, because a psychiatric examination is standardized.

Q. When you tell me that there is a difference between a functional phychosis and an organic one, would not there be a different type of test used? A. Not so far as finding out what kind of a psychosis it was.

Q. What does psychosis mean, Doctor? A. Mental illness, briefly.

Q. And if the mental illness is functional what does the mean? A. That there is no organic or structural change that is responsible for that illness.

Q. And you would ascertain that from questions and answers? A. In the first place, we prove whether or not there is a phychosis or mental illness.

Q. In this particular case what tests did you give that proved to you that there was no psychosis? A. I performed a psychiatric examination of him.

Q. I know that. I am asking you what tests? Just asked him questions and got answers? A. That quite fits it, I think.

Q. And on these answers that he gave you, you came to the conclusion that there was no psychosis? A. That's right.

Q. And from these answers which he gave you, you determined that there was no organic defect? A. No, I didn't say anything about determining no organic defect. I said I determined that there was no psychosis.

Q. Isn't an organic defect one of the psychoses?
A. No.

Q. It is not? Now, I believe Doctor Waterman testified that there were about a hundred different types of psychoses and they could be divided functional or organic defects. Do you agree with that statement, Doctor? A. Not entirely.

Q. What part do you disagree with? A. Well, I gathered from the way you express it that Doctor Waterman had testified - I didn't hear him - that psychoses were pretty much evenly divided between functional disorders and organic disorders. Perhaps I misunderstood you or that you misunderstood Doctor Waterman. I think that the organic condition that caused psychoses or mental disease are relatively few, while those that are based on functional disorder are predominant.

Q. Well, don't you give a different type of test to determine an organic defect, which is as I understand, is one phase of psychosis, than you do for a functional type of mental illness?

MR. BILL: I object to that question because of the characterization of something that was not in there.

MR. BURKE: I claim it.

THE COURT: Unless the witness finds difficulty with it, he may answer, and I will overrule the objection.

THE WITNESS: It is difficult to answer the question because an organic defect is not a psychosis, and I think you used it as such here.

Q. Yes, I did. Would you say, then, an organic of the central nervous system was a psychosis? A. Well it is not a psychosis, but might cause a psychosis.

Q. And in a functional type of psychosis, there is no physical evidence of it, is there? A. There is no demonstrable tissue change noted.

Q. Now, would that be the type of mental illness such as epileptic equivalents? A. I would like the question - epileptic equivalents, I think you said.

Q. That is what I said. A. A man suffering from epilepsy due to an old trauma will have a so-called psychic equivalent - he might have epilepsy due to a brain injury and have a psychic equivalent as a manifestation of his epilepsy, and therefore chargeable to the intracranial injury or brain injury.

Q. Isn't it also true, Doctor, a man can have epileptic equivalent - I think you fellows call it - and no manifestation of epilepsy? A. I would say that at some time definite manifestation of epilepsy would appear, and that a person does not go along with equivalents with never any manifestation of epilepsy.

Q. But at any rate, as I gather from you now, you gave no tests to determine whether or not there was a psychosis and found none? A. I gave the customary psychiatric examination to determine whether or not the patient has a mental illness or psychosis.

Q. And this lasted about two hours? A. Yes.

Q. And it was with a patient handcuffed to a chair? A. That's right.

Q. You wouldn't say that is the best condition to take such a test, would you, Doctor? A. Mr. Taborsky showed no evidence of —

MR. BURKE: May that answer be stricken?

THE COURT: Yes, it is not responsive.

(The Reporter read the question)

A. No, those were not the best of conditions for Mr. Taborsky.

Q. Now, in your examination to establish your findings you did, did you investigate into his insight? A. Yes.

Q. You did - and what did you find from that?

A. He realized he had got himself involved in trouble; he knew the legal charge for the trouble he had got into, and he knew the possible consequences if he were found guilty.

Q. And you established that from two or three questions you asked him here? A. Plus the fact that he evidenced no sign of mental disease.

Q. Well, that was all part of the same test, wasn't it Doctor? A. No, the questions about whether he knew of the legal term for an illegal act and the consequences were not the usual parts of a psychiatric examination.

Q. Well, when you were making this one test for this psychosis business, that was one of the questions you were asked to determine, wasn't it? A. If I may have my record back. Now I would like the question.

(The Reporter read the question)

A. Can you elaborate - asked by whom?

Q. I will withdraw it and start over again. You said you investigated into his insight? A. I think I said he had insight into his situation.

Q. Now, that was part of the test you gave him to establish whether or not a psychosis existed, that is correct, isn't it? A. Well, it indirectly was an indication of whether or not he had a psychosis, but that was as

to something he has, because we wanted to find out if he knew the charge and the possible consequences.

Q. All right. Did you investigate into the memory field? A. Yes.

Q. Did you investigate into the emotional field?
A. We observed his emotions.

Q. Now, you read Mr. Ibelle's report about his findings in the emotional fields, did you not? A. I did.

Q. Do you recall reading that he was superficial in emotions, guarded and cautious and not revealing himself completely? Do you recall that part? A. I do.

Q. Did that have any effect on your findings?
A. No, there wasn't any noticeable contradictions with what we found ourselves.

Q. Did you find that he didn't think about other people as the average, usual person does? A. As the average, useful person does?

Q. Usual person - those are Mr. Ibelle's words.

Q. We do find — we found that he had certain ideas which people who have not been in trouble do not have.

MR. BURKE: May I have that answer?

THE COURT: Yes, read it, Mr. MacGlashan.

(The Reporter read the answer)

Q. Now, do you recall Mr. Ibelle saying his findings were that Joseph had no indication of eventual punishment, no indication of remorse or quilt? The usual person we give this kind of test to always bring in some implement of his eventual punishment or feelings of guilt? Do you agree with the statement of Mr. Ibelle's? A. In part.

Q. Well, did you find he had no feelings of guilt?

A. No, I would not quite agree with that. He felt feelings of guilt on account of his mother.

Q. Did he have any feelings of guilt on account of himself? A. I will have to refer to my notes. Yes, I did obtain something from him.

Q. What do you find there? A. We asked him if he felt badly about killing people, and he said — Is that going to cause trouble?

Q. I would like to have you read it to the Court and jury. Read that paragraph. A. At the Court's direction I read it. Asked if he felt badly about killing people, he said: "At the time I shot Woolfson I felt bad - it was reflex - but in the death house, there is no feeling of life — you get hard from the guards wanting to go to the execution."

Q. Is that the end of it? A. There is more in it.

Q. All right. A. Not pertaining to what you wanted, I think.

Q. What pertains to other people in the death house with him.

Q. Now, do you think - or what do you feel is the effect of staying fifty-two months in the death house? Do you feel there was any effect on him mentally? A. I don't think so.

Q. None at all? A. I don't think so.

Q. Do you feel, Doctor, that a man in the death house awaiting his execution, time after time, day after day, it will not have any effect on his mind? A. Well, in the death house he probably went through anxiety. If you are released I would expect that to disappear, so that at the time he was discharged I don't think there was any effect of the death house left, except maybe resentment in being locked up and put to the strain that he was.

Q. But wouldn't that have an effect on his mentality, Doctor? A. I don't think it would have. He is a composed man.

Q. From what you have just read there, Doctor, I gather there he said to you that after the Woolfson affair he felt some guilt, but when you examined him, he apparently felt none. A. Well, I don't think I said he felt none.

Q. Your report doesn't say he felt any, does it?
A. In that particular paragraph it doesn't.

Q. May I see the notes again, Doctor? Did you in your examination ascertain whether or not Joseph had any feeling of the desire to die? A. Not that I recall, but you have my notes.

Q. You can't recall? A. I don't recall he had any desire to die.

Q. He didn't express that to you? A. Not that I recall.

Q. And if he had, Doctor, would that have any effect on your conclusion?

MR. BILL: Objection.

THE COURT: Yes, I will sustain it.

MR. BURKE: I claim it, Your Honor, Dr. Liberson - Dr. Abrahamsen testified and it is in the evidence, and I would like to find out what this doctor says about it.

THE COURT: He says he didn't, so it is conjectural, and I will sustain the objection.

Q. Doctor, as an expert in this field under which you are testifying now, would the expression in a person of a desire to die mean anything to you as to their mental capability? A. It might or it might not. I can conceive of situations where a person might feel they should die and say so.

Q. That isn't the average - I mean the usual average feeling of a person, is it? A. Well, I think that probably you have — people that are confronted with possible drastic punishment at court might quite likely feel they wanted to die to escape as quickly as possible, and I think people who have brought about accidently, or maybe deliberately, injury to somebody, they are troubled by it, and for a time they think they would like to die.

Q. That isn't a normal reaction or normal thought, is it? A. Well, I don't know, I have never canvassed normal experience to find out.

Q. Well, is it not so, Doctor, that one of the strongest desires in a living thing is to live? A. That is so, except there are certain conditions under which probably the best things are for a person to die.

Q. And if a person has a desire to die, when the normal thing is a desire to live - doesn't that indicate there is something wrong with the person? A. Well, if a person has every reason to live, as an average person in the world, and he wants to die, I would say there is something wrong with the person.

Q. Doctor, yesterday, Dr. Abrahamsen testified. Have you ever heard of Dr. David Abrahamsen, by the way?
A. Yes.

Q. And you have read his book, "Crime and the Human Mind"? A. I have heard of it. He has written several books, I think.

Q. In his examination he found that Joseph had a lack of reality, and inability to distinguish between right and wrong, and that he had developed a system of delusions, which brings him to the conclusion that the defendant suffers from schizophrenic reaction, paranoid type. You didn't find that to be so? A. No, I would disagree with Dr. Abrahamsen.

Q. And you based your conclusions on a two hour visit with Joseph, didn't you? A. Plus two previous examinations of his several years before.

Q. Well, the examinations you made several years before, one you said on January 19, 1951 and one on January 24, 1951 - you made no examinations in the intervening years, did you? A. No.

Q. Until March 4? A. That's correct.

Q. And in the intervening years he had this unusual experience of staying in the death house for fifty-two months? A. Yes.

Q. Facing execution? A. Yes.

Q. And yet on March 4, 1957, I believe you testified, your conclusions were the same as they were in 1951? A. I didn't testify on March 4. I testified today, based on an examination on March 4.

Q. Yes, but on March 4 your conclusions were exactly the same as your testimony today? A. That's correct.

Q. So that whatever happened between March 4 and now wouldn't change your opinion at all? A. That is right.

Q. So that we can say, then, your conclusions as of March 4, 1957 were exactly the same as they were in 1951, or substantially the same?

MR. BILL: I object to that, Your Honor.

MR. BURKE: Claimed.

MR. BILL: He hasn't testified about 1951 at all.

MR. BURKE: He did testify to it, Your Honor. He said he examined him in March 1957 and five or six years ago he examined him on January 19 or whatever, 1951.

THE COURT: There is no evidence I recall, Mr. Burke, and of course, the recollection of evidence will be for the jury - as to any conclusions reached on the examinations of 1951, so I will sustain the objection.

Q. I will ask you, then, Doctor, your conclusions in January, 1951 were the same as they were, as a matter of fact, on March 4, 1957? A. Well, so far as his having any mental disease or psychosis is concerned, my conclusion is the same.

Q. So that the intervening years and intervening experience of waiting fifty-two months in the death house made no appreciable effect on his mental condition, in your opinion? A. None that made him psychotic or mentally diseased.

Q. Do you feel that his running away during school days had any bearing on his mental condition? A. I think he was a wild kid in his school days and that accounts for his running away.

Q. And you don't think that that in any way indicates any mental trouble? A. No, I don't.

Q. None at all? And the fact that he was constantly running away from something at the Junior Republic, even at Cheshire, that means nothing at all to you, either? A. I think it means that he resented restriction of his liberty. But it is nothing at all or it is no indication of any mental trouble? A. It is no indication of a psychosis at this time.

Q. Did you in your examination inquire into the strength of his judgment? A. We base an opinion on his judgment on his answers to ordinary questions asked.

Q. And you read Dr. Ibelle's report, did you not, in which he stated that his judgment was poor, his analytic and interpretive abilities are weak? You read that? A. I

read something akin to that. I don't have his report before me.

Q. Well, I have it, Doctor. A. Or whether you are reading it verbatim or not, I don't know. I do have it. Your question?

THE COURT: Read it, Mr. Burke.

Q. (Repeated by reporter): "And you read Dr. Ibelle's report, did you not, in which he stated that his judgment was poor, his analytic and interpretive abilities are weak? You read that?" A. Yes, I read that.

Q. Did that have any effect at all on your opinion or your conclusion? A. It did not change my opinion about Joseph Taborsky in any way.

Q. And you also read in the report that guilt feelings were relatively absent? You read that in Mr. Ibelle's report? A. I did.

Q. That had no effect [redacted] your opinion at all? A. Not so far as determining any psychosis or mental disease.

Q. The net result is that the entire conclusion you reach was based on this two hour examination on March 4th? A. That is correct.

Q. And anything else you learned from the psychologist's report or anything else after that had no effect whatsoever on your conclusions or judgment? A. No, I wouldn't say that. I say it doesn't contradict what I think.

Q. You didn't change your opinion any, did you? A. That's right; I didn't.

Q. So that it had no effect, then, on what you had decided on March 4th? A. Well, it in no way changed my opinion about Mr. Taborsky.

MR. BURKE: That's all.

THE COURT: Mr. Bill?

MR. BILL: Thank you, Doctor.

* * * * *

DR. CHESTER WATERMAN, having been previously sworn, was recalled by the State and testified as follows:

DIRECT EXAMINATION BY MR. BILL:

Q. I think, Doctor, you testified as to your qualifications and medical background, and so forth, in the Culombe case, so we won't repeat that now because the jury has it. But whether or not, Doctor, on March 4th, 1957, you examined Joseph Taborsky? A. I did.

Q. And were you in the company of somebody at the time you made your examination? A. I was.

Q. Is that the same examination that Dr. Bancroft has just referred to on the witness stand? A. Yes.

Q. Have you been present in the Courtroom all during Dr. Bancroft's testimony here in connection with Joseph Taborsky? A. I have.

Q. And whether or not in the examination you noted any outward evidences of emotional disturbance? A. Did I notice any outward evidence of emotional disturbance?

Q. Yes.

THE COURT: That was the question.

A. In whom?

Q. Taborsky. A. No.

Q. What sort of an appearance did he make as you examined him there? A. He made a very good appearance. He was calm,

Q. Yes? A. His stream of thought was good. His replies to questions were relevant.

THE COURT: Doctor, the jury won't be able to hear you, at all. Keep your voice up, will you? You don't need to shout, but keep it up. Go ahead.

Q. Now, whether or not you went into Taborsky's childhood history at that time? A. I did.

Q. And is your evidence pretty much the same, substantially, as Dr. Bancroft's, in connection with his childhood history? A. It is. We examined him together.

Q. What's that? A. We examined him together.

Q. Yes. And is your report pretty much the same, substantially, as he gave here on the witness stand?
A. Substantially the same.

Q. All right. Now, did you go into his adult history, his employment and the type of employment and what he did during the years after childhood? A. I did.

Q. And were those — Are those the same in your report as given by Dr. Bancroft here? A. They are.

Q. Now, did there come a time in your examination that Taborsky discussed with you a number of holdups that he had committed? A. Yes.

MR. BURKE: Objection, Your Honor.

THE COURT: The same objection as before?

MR. BURKE: Yes, Your Honor.

THE COURT: Same ruling. I'll overrule the objection.

MR. BURKE: Exception.

THE COURT: Surely.

Q. Did he, in the discussion of these holdups, say what his motivation was for the holdups?

MR. BURKE: Objection.

THE COURT: Same objection, Mr. Burke?

MR. BURKE: Yes, Your Honor.

THE COURT: I'll overrule it.

MR. BURKE: I don't see how it is relevant on this issue at all. Exception.

THE COURT: Exception.

A. He did.

Q. And what did he say? A. That he needed money.

Q. In the course of your examination did he give you any reason for the killings that took place in these incidents?
A. He did.

Q. And what did he give to you as being the reason?
A. He told me that he was known as "The Chin" —

Q. You can look at your notes if you need to.
A. I don't need it. I remember it. —and that he knew of no man in Hartford that had that particular type of chin, and that he believed that these witnesses should be killed because they would identify him.

Q. Now, did he describe to you any holdup incidents that he took part in where there were no killings?

MR. BURKE: Objection.

THE COURT: I'll overrule the objection.

MR. BURKE: It's repetitious, besides. We just had this.

THE COURT: Not with this witness.

MR. BILL: We did not. These are questions —

THE COURT: I overruled the objection.

MR. BURKE: May I have an exception?

THE COURT: Surely.

Q. Did you understand the question, Doctor?
A. Yes.

THE COURT: Will you answer it?
A. Yes.

Q. And how many? Did he name them? I am not asking you for the names. Did he tell you the number of such holdups where there were no killings? A. I think there were five all told.

Q. And you are now referring to your notes?
A. Yes, sir.

Q. Now, Doctor, at the conclusion of your examination did you arrive at an opinion as to whether or not Joseph Taborsky had the mind and capacity, reason and understanding enough to judge of the nature, character and the consequences of the act charged against him? A. I did.

Q. And what was your conclusion? A. I felt that he was.

Q. You felt that he did have those attributes?
A. I felt he did have those qualifications.

Q. Were you of the opinion that he knew the act was wrong and criminal? A. I believe that he did know the act was wrong and criminal.

Q. And in your opinion did he know that the commission of it would justly and properly expose him to penalty? A. I think so.

Q. Were you of the opinion that his mind was so diseased or abnormal as to render him incapable of resisting an impulse to do an otherwise criminal act? A. I was not.

Q. Did you find Joseph Taborsky to be psychotic?
A. I did not.

Q. Did he have any evidence of confusion during the examination? A. He showed no evidence of confusion.

Q. Was he oriented in all fields? A. In all fields.

Q. Did he have any delusions? A. There was no evidence of delusions.

Q. Did he have any false perceptions? A. No false perceptions.

Q. How was his memory as to both recent and remote past? A. His memory is very good.

Q. And how was his stream of thought? A. Stream of thought was delivered with normal rapidity. No evidence of flight.

MR. BILL: Your witness.

THE COURT: I think we'll stop here, Mr. Burke. You may escort the accused from the Courtroom.

(Accused removed from Courtroom.)

THE COURT: The alternates may retire to their room and the jury to theirs.

(Jury and alternates excused.)

THE COURT: Short recess, Sheriff.

(Recess at 3:30 P.M.)

AFTER RECESS - 3:44 P.M.

THE COURT: Bring in the accused.

(Accused in the courtroom.)

THE COURT: May I have the alternates and the jury and Doctor Waterman, would you take the stand, please?

(Jury and alternates seated at 3:45 P.M.)

DOCTOR CHESTER WATERMAN, recalled.

THE COURT: Mr. Burke, you may proceed when you are ready.

CROSS EXAMINATION BY MR. BURKE:

Q. Doctor Waterman, you testified before the recess that in your opinion you found that Joseph Taborsky had the mind and capacity, reason and understanding enough to judge of the nature, character and consequences of the act charged against him. A. I did.

Q. And you found that to be true on March 4, 1957? A. I did.

Q. You know nothing of his mental condition as of December 15, 1956, do you? A. No.

Q. So, as far as you knew on that date he might not have had that capacity, isn't that true? A. Possibly, yes.

Q. And that also goes for the belief that the act was wrong and criminal and that the commission of it will justly and properly expose him to penalty. You knew nothing of his belief as of December 15th, did you?

THE COURT: I am afraid you don't mean that. Would you read it, Mr. MacGlashan?

(The reporter read the question.)

Q. You know nothing of his belief - you don't know anything about his mental capacity on December 15th, 1956? A. No, I do not.

Q. And the best you know is how you found him on March 4th? A. That is correct.

Q. You stated here, I think, today that you found no evidence of confusion? A. I found no evidence of confusion.

Q. What tests did you make to determine that? A. Orientation.

Q. You asked him where he was? What day it was, simple things like that? A. And his environment.

Q. What environment do you mean? A. Where we were.

Q. Where you were? A. Yes.

Q. That is what you mean by he has no confusion if he knows where he is? A. That is one way of knowing it. I also - he showed no confusion - no mental confusion throughout the examination.

Q. What do you mean by confusion? A. Bewilderment.

Q. You mean he knew what he was talking about? A. Yes.

Q. And he knew where he was? A. He did.

Q. And those are the simple tests you arrived at to show he has no confusion? A. That, and combined with the fact that he answered the questions on the part of the mental examination.

Q. You say he was calm and composed. Were you afraid of him, Doctor? A. No.

Q. Was he handcuffed to the chair? A. He was.

Q. Did you join in Doctor Bancroft's request that he be handcuffed? A. No, I think that originated from the State Police.

Q. You heard Doctor Bancroft say he was afraid he would be "clobbered" I think was his words. You were not afraid you would be clobbered? A. I wasn't afraid of him, no.

Q. You say he had no delusions? A. I found no evidence of delusions.

Q. What test did you give him? A. A mental examination.

Q. What tests - a mental examination means nothing to me. What tests? A. There are no specific tests in a psychiatric examination.

Q. And what did you do in this connection - on the conclusion you reached - ask him some questions and get his answers and you arrived at an opinion? A. That is right.

Q. No tests at all? A. What do you mean by tests?

Q. I am asking you if you gave him any tests? A. The whole psychiatric examination might be characterized as a test.

Q. You have no independent tests to determine whether or not there were any delusions? A. No, not that I know of.

Q. You also said he had no false perceptions - what does that mean? A. That means that he has no hallucinations or illusions.

Q. Did you have the benefit of Mr. Ibelle's report? A. I did.

Q. And did you see what he said about these perceptions? A. Did I see what he said?

Q. Do you remember his report? A. I do.

Q. Did you read it? A. I did.

Q. And from March 4, 1957 until today your opinion didn't change, did it? A. None whatever.

Q. So whatever he said in his report made no effect on you, did it? A. Yes, it did.

Q. What effect? A. It showed that he wasn't mentally defective.

Q. Well, didn't you see in there that he didn't have any human percepts - I believe that is what Mr. Ibelle

calls it - did you see that in the report? A. Did I see what?

THE COURT: Read the question, Mr. MacGlashan.

(The reporter read the question.)

A. Well, false perceptions from a psychiatric standpoint mean hallucinations of any of the senses or illusions, and we find no evidence of any of those.

Q. Did you see in Mr. Ibelle's report respecting his findings? A. Yes.

Q. Did you see in his report that there was some intellectual deficit - did you find any such? A. I found none.

Q. What test did you give to establish there wasn't any? A. The usual psychiatric examination - memory.

Q. You keep repeating that. What tests did you give? Mr. Ibelle gave tests. A. I didn't give any tests. I gave you what was my opinion as the result of the entire psychiatric examination.

Q. You told Mr. McDonough there are a great many types of psychoses? A. That is true.

Q. You said one hundred, I think? A. That is just approximately.

Q. Didn't you say that? A. I said that.

Q. And you said some are functional and some are organic? A. That is right.

Q. Now what kind are functional? A. Functional psychoses comprise the vast majority of psychoses. The mind is not working well but there is no physical alteration or damage to the central nervous system.

Q. What kind - what is the name of them? A. Well, dementia paralytica.

Q. How about schizophrenic reaction, paranoid type? A. As far as schizophrenia is concerned, there has never been any physical basis found for such.

Q. There is not a functional basis for it? A. We regard it as a purely functional condition.

Q. That is one of the functionals, is it not, of which there are about a hundred different kinds? A. Right.

Q. Did you make any tests to determine whether he suffered from that? A. Yes, our general psychiatric examination.

Q. That is one of the tests you gave sitting over there when he was handcuffed - the one test? A. There were no definite tests like mathematical tests.

Q. What you do is to give us the sum of the tests, is that it? A. From our experience we size up the whole reaction.

Q. And from your experience in the sizing up of the reaction you are looking for results? A. Yes.

Q. And you knew you were working for the State in this case, did you not? A. Yes, but I am not prejudiced.

Q. Did you find that he shows a weak, analytical and integrative ability? A. As part of what?

Q. Mr. Ibelle says "Again, as on the intelligence test he shows weak analytical and integrative abilities." Did you find that to be so? A. No.

Q. Did you find he had a distorted conception of what people are really like? A. No.

Q. Mr. Ibelle found it, though, didn't he? A. I believe so.

Q. Did you read the report? A. Yes.

Q. And after you read the report, did that have any effect on your conclusions? A. None whatever.

Q. You didn't want that effect, did you? A. Of course I did.

Q. You said that he had a good knowledge, I believe, of the consequences of his act, is that so? A. That is true.

Q. Did you read where Doctor Ibelle says: "There is no indication here there will be any eventual punishment at all, no indication at all of remorse or guilt?" You didn't find that? A. I didn't find any remorse or guilt.

Q. He said, "The usual person given this kind of test and given this kind of story always brings in some implement of eventual punishment or feelings of guilt or feelings that he shouldn't have done that or fright. Here we have nothing except the simple statement that this is what happened." Did you find that? A. Yes.

Q. You found there were no feelings of guilt?

A. He didn't manifest any feelings of guilt except that he felt guilty in causing worry to his mother.

Q. But in this language of manifestation of feelings of guilt, he didn't have any conception, did he, of the eventual punishment? A. I think he did.

Q. Well, then, you don't agree with Mr. Ibelle's report in that respect? A. Yes, I agree with his report when he says there is no manifestation of guilt.

Q. He also states there is no indication here that there will be any eventual punishment at all. Did you read that part of the report? A. Yes. I don't agree with that.

Q. You don't agree with that. And your examination, you said, took about two hours? A. Yes.

Q. You and Doctor Bancroft? A. Yes.

Q. And during the two hours you would be asking and writing out questions? A. Yes.

Q. How long did it take to write out the question? A. I didn't time it.

Q. Did it take a few minutes? A. Yes.

Q. How many questions did you ask in two hours? A. We didn't keep track of the time. I went through the usual routine of a thorough psychiatric examination.

Q. Do you want us to believe that you can give a thorough psychiatric examination in two hours? A. I do, depending on the occasion.

Q. And in this particular case you could do it? A. I think so.

Q. Isn't it so it takes a lot longer time than that to give a good reasonable psychiatrical report? A. I don't think so. There are some that take very much less time.

Q. Let me ask you this. Did you delve into his background? A. Only what he told us.

Q. You didn't go to his family to find out anything? A. I didn't.

Q. Isn't that important in suggesting a person's mental health? A. It sometimes is.

Q. You didn't think it important in this case? A. I did not.

Q. You knew his father had been in an insane asylum? A. I didn't at the time, no.

Q. You didn't at the time? A. No.

Q. When did you find it out? A. Just recently.

Q. So that wasn't a part of your report? A. That wasn't a part of my report.

Q. When you learned that, didn't that have some bearing on your report? A. No.

Q. You knew his brother was in the insane asylum, didn't you? A. I knew that.

Q. Did you know it at the time you were taking the examination? A. Yes.

Q. Did that have any bearing? A Yes, he told us his brother was in the Norwich State Hospital.

Q. Did you check the hospital to find out what he was there for? A. No.

Q. You didn't think that was important? A. No, I didn't think it was very important.

Q. All you thought was important were these questions and answers you got in two hours? A. Yes.

Q. That is all that was important? A. I thought the important thing was a thorough psychiatric examination.

Q. And you say you can give one of those in two hours? A. Yes.

Q. And you then can come in here and give us your opinion, an opinion on which a man's life might be at stake, on a two hour examination? A. Yes, and there are some patients that do not take that much time.

Q. You didn't check into his background to find out what kind of a childhood he had, did you? A. Only what he told me.

Q. You didn't go to the schools, did you? A. No, but I got reports from the schools.

Q. You didn't go to his family? A. No.

Q. You didn't check on that operation for the abcess on his head? A. Yes, he told me about that.

Q. Did that have any effect on your report?
A. None whatever.

Q. You didn't even check on the hospital reports or the dates? A. Only what he told us.

Q. You didn't know whether there was any residuary of brain damage? A. There were no symptoms to show any.

Q. You can't see the symptoms outside, can you, Doctor? A. Well, you can get symptoms.

Q. Dosen't it take an encephalogram test to determine whether or not there is brain damage? A. Yes.

Q. If I gave you the same answers he did, your report would be that I was sane, wouldn't it? A. Would you repeat that question?

THE COURT: Yes, read it, Mr. MacGlashan.

(The Reporter read the question)

A. Yes.

Q. I could make up those answers, couldn't I?
A. Yes, possibly.

Q. And if I had brain damage you wouldn't know anything about it unless you took an encephalogram? A. Yes, I would.

Q. How could you tell? A. By symptoms.

Q. What symptoms would isclose to you that I had brain damage? A. What type of brain damage?

THE COURT: He can't answer questions. Just answer the question and if you can't answer say so and we will try to help you. If you don't understand, make known your difficulty, but don't ask him questions.

(The Reporter read the question)

A. Usually if there is an organic condition there is confusion, deterioration, and they are not able to answer as relevantly as this man did.

Q. You don't, do you, honestly underoath know, whether he had brain damage without an encephaelogram, do you? A. Couldn't positively say, no.

MR. BURKE: That is all.

* * * * *

APPEARANCES OF WITNESSES
BEFORE HON. ABRAHAM S. BORDON, JUDGE

MARTIN H. HORWITZ, a witness called by the Defendants, having been sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name? A. Martin H. Horwitz.

Q. Where do you live? A. New Britain.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Horwitz, what is your business? A. General insurance, realtor and world travel.

Q. World traveler? Mr. Horwitz, you are a former Deputy Sheriff for Hartford County? A. Yes, sir.

Q. You are here under subpoena? A. Yes, sir.

Q. Mr. Horwitz, in the course of your business, general insurance and real estate, do you get around and associate with the general public? A. A little.

Q. And you belong to fraternal organizations?
A. A few.

Q. And religious and other groups and social groups?
A. Correct.

Q. In the course of your work, getting around among the general public and your fraternal duties and social affairs have you found out whether or not in New Britain there is an opinion formed as to the guilt or innocence of the accused or to the matter of their trial? Answer "Yes" or "No" to that. A. Will you repeat that?

MR. McDONOUGH: May it be read?

THE COURT: Read it.

(Last question read by Reporter)

A. No.

Q. You have not? Have you heard it discussed by any groups? A. Not by groups.

Q. Have you heard it discussed? A. On the street here and there.

Q. By the general public? A. Well, people that you meet, if you call that the general public.

Q. About how many have you heard it discussed? A. I wouldn't state, Mr. McDonough.

Q. Are you able to tell this Court whether or not you found an opinion among the people? A. If I -

Q. Have discovered an opinion, not asking you what the opinion is? A. No.

Q. You have not?

MR. McDONOUGH: That's all.

ROBERT F. PROBST, a witness called by the Defendants, having been sworn by Mr Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name? A. Robert F. Probst.

Q. Where do you live? A. West Hartford.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Probst, what is your business? A. I work for the Connecticut Light and Power Company.

Q. And do you get out among the general public in West Hartford? That is your home? A. Yes, it is, sir.

Q. Do you get out around the general public so that you have heard discussion about public events and public affairs? A. Not too much.

Q. Are you in a position so that you can state the opinion - not your opinion - of the general public that you have heard? A. No, I am afraid I can't.

Q. You were subpoenaed in this case? A. Yes, I was.

Q. And you weren't consulted at all by any attorneys? A. No, sir.

Q. You were just drawn at random, as far as you know? A. Yes, sir.

MR. McDONOUGH: That's all.

MR. BILL: No questions.

THE WITNESS: May I be excused.

THE COURT: I'm afraid you may. You won't serve much purpose here.

ROBERT P. LEWIS, a witness called by the Defendants, having been sworn my Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name? A. Robert P. Lewis.

Q. Where do you live? A. Unionville, Connecticut.

DIRECT EXAMINATION BY MR. BURKE:

Q. Could you tell me your business? A. I am a salesman.

Q. You have some official position in the town? A. I am the Director of Domestic Relations in the Town of Farmington.

Q. And do you hold any political office? A. No, I don't, sir.

Q. Now, Mr. Lewis, do you have occasion to be around Unionville quite extensively? A. I do, sir.

Q. And do you talk to a great number of people in Unionville? A. Yes, sir.

Q. Now, Mr. Lewis, regarding this Taborsky-Culombe murder can you tell me whether or not there is an opinion existing in Unionville regarding these men? A. Yes, sir.

Q. Just answer "Yes" or "No". A. Yes, sir.

Q. What is that opinion? A. The opinion is -

MR. BILL: Objection.

MR. BURKE: Claim it.

MR. BILL: He has given no background of how many he talked to or what he discussed or on what basis he forms it.

BY THE COURT:

Q. What people do you call on? A. Your Honor, I make about a hundred to a hundred and twenty calls a day in Greater Hartford.

Q. For what purpose? A. I am a collector salesman, installment collections. I also sell to these accounts.

Q. For what kind of business? A. It's the Capitol Home Equipment Company of Hartford.

Q. How many people have you discussed this matter with? A. Well, I would say out of among a hundred to a hundred and twenty calls a day I broached the subject maybe to twenty-five or thirty.

THE COURT: Read the question.

(Repeated by Reporter) "What is that opinion?"

THE COURT: The question is excluded. I do not believe that Mr. Lewis is qualified to give any opinion which will affect the Court's judgment.

MR. BURKE: May I ask this question, Your Honor:

Q. Did you, Mr. Lewis, in discussing this matter, you say twenty-five or thirty times a day with citizens about Hartford County, did you find existing any prejudicial feeling toward these two men? A. I did, sir.

MR. BILL: Objection.

THE COURT: The question is excluded.

MR. BURKE: May we take an objection to both the questions, Your Honor?

THE COURT: You have an exception, sir.

MR. McDONOUGH: I have no questions.

MR. BILL: No questions.

MR. BURKE: Your Honor, may Mr. Lewis be excused?

THE COURT: He may.

JAMES R. RABBETT, a witness called by the Defendants, having been sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name? A. James R. Rabbett.

Q. Where do you live? A. Windsor Locks.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Rabbett, what is your business or occupation?
A. Town Clerk and Treasurer, Windsor Locks.

Q. How long have you lived in Windsor Locks?
A. Born there.

Q. In your duties in connection with your office of Town Clerk do you come in contact with many of the public? A. I do.

Q. To what extent? A. Well, I have them come in for licenses and to have deeds filed, mostly with title searchers from out of town.

Q. Do you have discussions with them? A. Mostly about business. We don't have time to talk about other subjects too much.

THE COURT: Are these title searchers lawyers?

A. Yes, most of them are lawyers.

Q. Are you active in politics, Mr. Rabbett?
A. Not too active right now.

Q. But you have been? A. I have been, yes.

THE COURT: You were a Democrat? A. Yes. Still am.

Q. Have you heard, Mr. Rabbett, - and answer "Yes" or "No" to this - discussion by the town's people in Windsor Locks of the Taborsky - Culombe affair? A. I have.

Q. And to what extent have you heard these conversations? A. To a very limited extent.

Q. And where has it been? A. I can safely say that the most of the discussions have happened in my own home.

Q. But not in connection with your work?
A. Not in connection with my work. We don't have time to talk about other subjects in the office, no.

Q. They are a very busy office? A. It is a very busy office.

Q. No politics, even? A. No, there's no politics in the office. No. Strictly business.

MR. McDONOUGH: That's all.

MR. BILL: No questions.

DIRECT EXAMINATION BY MR. BURKE:

Q. I will just ask you, Mr. Rabbett, if you know whether or not there is extant an opinion in Windsor Locks regarding these two men?

MR. BILL: Objection, Your Honor.

A. I wouldn't be able to answer that question.

THE COURT: The answer is that he wouldn't be able to answer that question. Do you withdraw the objection?

MR. BILL: Yes.

MR. BURKE: I didn't hear anything with all the confusion.

THE COURT: Will you read the answer?

(Last answer read by Reporter)

Q. Would you know, Mr. Rabbett, whether or not there exists in Windsor Locks an air of prejudice against these two men? A. If it did exist I wouldn't know. I have no way of knowing.

MR. BURKE: That's all.

MR. McDONOUGH: You don't get around much, do you? A. Not too much.

MR. McDONOUGH: That's all.

MR. BILL: That's all.

THE COURT: You may be excused.

GEORGE T. MANION, a witness called by the Defendants, having been sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name? A. George T. Manion.

Q. Where do you live? A. Avon, Connecticut.

DIRECT EXAMINATION BY MR. BURKE:

Q. Mr. Manion, will you tell us your official capacity in the Town of Avon? A. Postmaster.

Q. And as such you are in constant cantact with the public of Avon? A. With their mail, at least.

Q. They come to get their mail, don't they?
A. It's getting so we don't contact the public much.

Q. But there are a great number of Avon citizens come to your Post Office to get their mail? A. Yes, sir.

Q. And in the course of a day how many people would you be talking to? A. Oh, it would vary from two to a hundred.

Q. Now, in addition to these duties as postmaster you are involved in civic and public affairs, are you not?
A. I wouldn't say involved. I participate in civic affairs of the town.

Q. It's a choice of words. A. I see that's what happened here today.

Q. Do you have an opportunity to know from your talking to these people every day whether or not there exists in Avon an opinion as to whether or not Taborsky and Culombe could receive a fair trial?

MR. BILL: Objection, Your Honor.

MR. BURKE: He can answer "Yes" or "No", Your Honor.

THE COURT: Let him answer "Yes" or "No".

MR. BILL: In the first place he hasn't told us how many people he has talked to about this case. I am objecting, Your Honor.

THE COURT: We'll find out. Do you have an opinion - read the question.

(The last question read by Reporter)

A. I couldn't answer that.

Q. How many people have you talked to in Avon regarding the Taborsky - Culombe affair, the murder affair here? A. Well, in conversations with many, probably twenty would talk about it.

Q. Twenty a day? A. Some days we might. Some days we might not talk to anybody about it.

Q. What I want to know, Mr. Manion, is whether there exists in Avon among the general public an opinion on this case. I am not asking you what the opinion is, but whether there is an opinion existing? A. I think in Avon they have opinion on anything that is before the public, and this is quite a bit before the public and they must have an opinion on it.

Q. They do, then, have an opinion on this partlicular case?

MR. BILL: No, he said they must have.

Q. I am asking you, Mr. Manion, if you know whether or not they do have one? A. Some have told me their views, but whether that would be their opinion or not -

Q. By "views" you mean what they are thinking about as regards this case? A. Well, if I don't get in

trouble, I might see some of them walk in to buy a stamp and they might gab about what they read in the paper that was happening that day. It could be the weather, could be the murder case.

Q. How many people commented on what they read in the paper regarding this murder case? A. There's been several.

Q. How many would you say a day? A. Oh, I have no idea.

Q. Would it be quite a number, in Avon? A. Two to ten.

Q. Two to ten a day? A. That's an estimate.

Q. And are you able to tell us whether or not from your talking to these people there exists in Avon an opinion or view, if you will, regarding a trial of these two men?

THE COURT: "Yes" or "no".

A. Yes.

Q. What is it?

MR. BILL: Objection.

MR. BURKE: I claim it, Your Honor.

THE COURT: The question is excluded. This man has not qualified. He couldn't reflect public opinion in the Town of Avon by discussing the thing one way or another with two to ten men.

MR. BURKE: May we have an exception, Your Honor?

THE COURT: You have an exception.

MR. BURKE: That's all I have.

MR. BILL: No questions.

THE COURT: That's all. Go back to the Post Office.

RAYMOND BEGLEY, SR., having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name? A. Raymond Begley, Sr.

Q. Where do you live? A. New Britain.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Begley, what is your business A. Liquor Store Proprietor.

Q. How long have you run a liquor store?
A. Fifteen years.

Q. Package Store? A. Package store.

Q. Do you come in contact with the public in the course of running that business? A. Yes, I do.

Q. And to what extent? A. You mean how many people?

Q. Approximately, yes. A. Probably a hundred a day.

Q. And do you have discussions with these people?
A. Off and on, yes.

Q. And fraternal organizations or political groups, do you have discussions with people other than the ones that come into your Package Store? A. Not necessarily.

Q. How much time do you spend in your Package Store every day? A. I am there from eight to twelve and from six to eight.

Q. It is the general public you deal with? A. Yes.

THE COURT: Is that eight to twelve in the morning and six to eight in the evening? A. Yes.

Q. Now, Mr. Begley, with this approximately a hundred people a day that come into your Package Store have

you heard conservations or discussions or engaged in them relating to Taborsky and Culombe on trial in this case for murder? A. Not recently, but when it first happened I heard a lot of conversation.

Q. By "not recently" what do you mean? A. I mean lately nobody has said much about it.

Q. When did it stop? When did it begin and when did it run through? A. When it first started there was quite a few conversations. Everybody that came into the Package Store talked about it.

Q. You mean right after the arrest or when the killings started? A. During the killings and after the arrest

Q. Quite a few people that came into your store talked about it? A. Yes.

Q. What proportion? A. At least fifty per cent of them.

Q. And did they reflect to you an opinion of that, say, fifty people a day, fifty per cent of a hundred, that they had regarding these killings? A. Well, yes.

Q. What was that opinion? A. They were quite sore.

Q. What do you mean? A. Well, they were darn mad. Of course, we are in the City of New Britain, we are in the Package Store business and we were concerned about it and people were quite afraid to go into the store at different times.

Q. Did they reflect an opinion as to the guilt or innocence of the accused and whether or not they were entitled to a trial?

MR. BILL: Objected to.

A. No.

Q. They did not? A. No.

MR. BILL: Objection withdrawn.

Q. But they were quite sore? A. Yes, very much so.

Q. Would you say they were inflamed? A. Well, to a certain extent.

Q. What do you mean, to a certain extent? They were or they were not? A. They were just boiling over, that's all.

Q. They were boiling over?

MR. McDONOUGH: That's all.

THE COURT: Mr. Begley, from eight to twelve and from six to eight, that's six hours, you think you talked to a hundred people?

A. At least a hundred people, Your Honor.

Q. They were boiling over about the whole situation, no matter who did the killings, it was the tragedies that had come to the package store keepers and gasoline station keepers and so forth, wasn't it? Wasn't that it? A. It was a matter of conversation when they would come into the store.

Q. And they discussed with you what they read in the papers, of course, is that so? A. Well, yes, I imagine so.

Q. You just imagine that? A. That's right. They would come in and that's the first thing they would start talking about.

Q. And you didn't question them on whether or not they could come into Court and listen to evidence and give a man a fair trial, did you? A. No, I did not.

Q. They didn't come out and say, "These fellows ought not to be given a trial, they ought to be given the

chair immediately". All those people didn't say that, did they? A. No, not all of them.

Q. There wasn't any more excitement over this, was there, than the time that Sergeant Grabeck got killed in New Britain? Were you there then? A. All my life.

Q. That was pretty exciting, wasn't it? A. Yes.

Q. And there was a lot of talk about it then, wasn't there? A. At that time.

Q. And those people talked to you about that case, didn't they, about the same as they did this case?
A. Yes, they did.

MR. BILL: That's all.

RE-DIRECT EXAMINATION BY MR. McDONOUGH:

Q. And you know that the man charged with that crime was convicted of first degree murder, don't you?
A. Yes, I do.

Q. Here in Hartford County? A. Yes.

Q. In answer to Mr. Bill you said something about whether or not they reflected an opinion as to whether or not they should get the electric chair or get a trial. Have they expressed an opinion as to whether or not they should get a trial or go to the chair without a trial?

MR. BILL: He answered that, Your Honor. This is cross-examination and this is his own witness.

MR. McDONOUGH: This is re-direct, Your Honor.

THE COURT: You are now asking for specific conversation which, of course, is hearsay.

MR. McDONOUGH: In order to avoid argument, Your Honor, I'll reframe it.

Q. Mr. Bill questioned you about whether or not opinions were expressed as to their being given a trial. Were opinions expressed as to that? A. Not necessarily. They were just kind of bitter, the people that came in.

Q. Without going into specific conversations, there was a general discussion of these men? A. Yes.

Q. And as you told me on direct examination, they were sore, weren't they? A. Very much so.

Q. And who were they sore at? A. At the person that was supposed to have committed the crime.

Q. Taborsky and Culombe?

MR. BILL: Wait a minute. That's a leading question. He said whoever committed the crime.

Q. Did they mention who the boys were that were supposed to have committed the crime? A. No, they probably said while this murder was going on They didn't have to mention any names.

Q. The New Britain gasoline station murder?

THE COURT: Now, are you suggesting the answer to him, as your own witness?

MR. McDONOUGH: No.

THE COURT: Are you?

MR. McDONOUGH: No, Your Honor.

Q. Have they discussed the New Britain gasoline station murders? A. Naturally.

Q. That is the present case? A. That's right.

Q. And did they - what did they say about it? What was their opinion? A. It was a terrible thing. They said "You'd better get out of the store because people coming in here don't want to come into your store".

Q. Was that their general attitude? Were they frightened? A. They were frightened, of course, the same as most everybody.

MR. McDONOUGH: That's all.

MR. BILL: That's all.

ANTHONY PALUMBO, a witness, having been sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name? A. Anthony Palumbo.

Q. Where do you live? A. Newington.

DIRECT EXAMINATION BY MR. BURKE:

Q. Mr. Palumbo, what business are you in?
A. Garage business.

Q. Do you have occasion in that business to meet many citizens coming into your garage? A. Yes, sir.

Q. How many a day do you talk to? A. I talk to a lot of people. I am there from eight in the morning until about twelve o'clock at night.

Q. And has one of the topics of conversation with your customers been the murders that have taken place?
A. Yes, sir.

Q. And have you talked with them regarding the newspaper, radio and television publicity given to those killings? A. I did.

Q. Now, could you tell me from your talking to these people, that you say are a great number coming into your gas station, whether or not there existed among them an opinion as to whether or not these two fellows should be given a trial or not? A. Yes, they -

MR. BILL: Objection, Your Honor.

THE COURT: Answer "Yes" or "No".

A. Yes.

Q. What is that opinion?

MR. BILL: Objection.

MR. BURKE: I claim it, Your Honor. I don't know how we are going to be able to show the prejudice that exists unless we are able to show it through a cross section of citizens, and the Courts have ruled that you must show that this publicity and this notoriety given to it does have an effect, and here are citizens who talked to others. We can't certainly subpoena in every citizen from Hartford County, and what we are asking is not a conversation or opinion. We are asking for a fact, the fact of whether or not an opinion exists.

THE COURT: Let him answer.

Q. What is that opinion? A. Will you repeat that again, please?

THE COURT: Read the question.

(Last question read by the Reporter)

A. Well, the people I talked to, and I talked to a lot of them, and they seemed to say that something should be done about these killings, and in fact my own men at the garage, my night help wouldn't work any more unless I gave them a gun. That's right. And one night I had to work there myself because on this last killing when Rosenthal was killed none of them came in and I had to take it on myself and well, of course, if you don't hurt anybody nobody is going to hurt you, so I worked that night and there was a lot of talk about it and they should shoot them when they got them if ever they did get them.

Q. After these men were apprehended did you talk to your customers about what should be done with them,

or did they talk to you? A. I talked to several and their opinion was not even give them a trial, shoot them.

MR. BILL: Just a minute. This is a matter of talking to several.

Q. Let me ask you this: In your conversations with these people who come into your garage each day, how many would you say you talked to each day about this since these men were captured? A. The whole subject of any customers that came in was about these killings. I talked to a lot of people. I won't say five or ten, but I talked to a lot of people.

Q. And would you say that there exists an opinion as to what should happen to these fellows regarding a trial? A. Well, I talked to one lawyer in town, I won't mention his name -

MR. BILL: Objection, Your Honor. That would be hearsay.

THE COURT: Excluded.

Q. I am asking about an over-all opinion of all the people you have talked to? A. They say that these fellows, they should give them a trial but not in Hartford County. They should be taken to another County where most of the people haven't heard about this case and where they could get a fair trial. If they are guilty they should be killed and forget about it.

BY THE COURT:

Q. Mr. Palumbo, how many people told you that? A. Sir? Oh, a lot of people.

Q. Tell me some. Tell me the names of some people who told you that? A. I can't tell you the names, Your Honor, but anybody you talk about that case.

Q. You have just stated that people told you they should have a trial but not in Hartford County. Give me the names of some of those people? A. It's a forgotten issue, Your Honor. I just can't think right now.

Q. It was enough for you to come up here and testify. Don't you remember the names of the people who told you they should have a trial in some other County? A. If I have to stop to remember the names of all the people and run a business at the same time I wouldn't know what to do.

THE COURT: All right.

BY MR. BURKE:

Q. Mr. Palumbo, do you get around the Town of Newington? A. Yes, sir.

Q. In fraternal organizations? A. Yes, sir.

Q. You are a very active member of the Knights of Columbus, are you not? A. Yes, sir.

Q. Have you been to meetings of the Knights of Columbus since these men have been apprehended?
A. I have.

Q. And were there any discussions at these meetings regarding these murders and the apprehension of the alleged killers? A. After the meeting was over a group of men would get together and they would talk about it.

Q. How many would be in these groups? A. Oh, ten or fifteen people.

Q. And they would be a cross section of the citizens of Newington? A. Oh, yes, they were all from Newington.

Q. Did you from the conversation gather that there was a public opinion in Newington regarding these two men?

is all he talked to.

MR. BILL: Objection, Your Honor. Fifteen of twenty

MR. BURKE: I claim it. This happens to be citizens of the town, and it is a known fact that one of the ways of finding out public opinion is by sampling.

THE COURT: I do not believe that this gentleman is capable of reflecting public opinion in the community merely by discussing it with a few people who may gather after a meeting.

MR. BURKE: All right.

Q. Besides talking to these men after they would gather at the meetings, the Knights' meetings, where else did you have an opportunity to discuss this? Do you belong to the Businessmen's Association of the Turnpike?

A. I am the Treasurer.

Q. Have they at meetings discussed the apprehension of these alleged killers? A. Most of these Berlin Turnpike Businessmen's Association want to close earlier at night.

Q. Have they had any meetings since the apprehension of these men? A. We had one the other night at the - in Berlin.

Q. And how many were present there? A. Oh, about thirty people.

Q. And was there any discussion at that meeting regarding these alleged killers? A. Oh, they were glad that they were caught and they should give them a quick trial and get it over with.

Q. Where else have you discussed this matter in Newington, if at all? A. That's about all.

Q. Now - and you also had discussed it with customers coming in to buy gasoline, as you stated? A. Yes.

Q. Are you are to say, then, that there is a public opinion extant in Newington regarding this affair?

A. The people are very happy that these two men have been caught.

Q. Yes, but I want to ask you whether or not there is any opinion extant as to whether or not these men should be immediately shot or disposed of or tried? A. They say they should let them run and shoot them down like rats.

MR. BURKE: That's all.

CROSS-EXAMINATION BY MR. BILL:

Q. Just a minute, another group you say feel that they want to have this moved out of the County, and now you talk about some men that want to have them try to escape and shoot them down like rats. Which is it?

A. I talked to a lot of people.

Q. And you got all this opinion? A. That's right. Different people.

Q. Oh, different opinions? A. That's right.

Q. So there isn't any opinion out there in Newington, you have a lot of different opinions, haven't you? A. You are talking about Newington, talking about the Berlin Turnpike and about the Knights of Columbus.

Q. Whatever you are talking about. A. Everybody wants to get rid of them. Shoot them down.

Q. You didn't say that before. You started out by saying one group wanted to be so fair and they were so careful that it ought to be moved out of the County; the next group, give them a quick trial. Now you say they want to have them shot down without a trial. Which is it? A. No man is guilty as far as I'm concerned until he is proven guilty. What right have I got to say "shoot a man". They tell me that. I have no right to shoot anybody.

Q. When are they going to shoot them? After the trial? A. If you was in my garage -

Q. Don't argue with me. A. Wait a minute.

Q. Just answer the question. No arguments. Read the question.

THE COURT: Is there anything about what any of these men said that indicated that they couldn't get a fair trial in Hartford County? A. No.

MR. BILL: That's all.

THE COURT: I am going to adjourn. The next time you come into a Courtroom will you please wear a jacket.

THE WITNESS: I have one there, sir.

THE COURT: Well, it would be good if you had it on. It doesn't do any good over there. Mr. Sheriff, adjourn until tomorrow morning at ten o'clock.

MR. BURKE: Will Your Honor make any order regarding the exhibits?

THE COURT: The Clerk will look after them.

(COURT ADJOURNED)

MARCH 20th, 1957

GEORGE TUDAN, a witness, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name please? A. George Tudan.

Q. Where do you live? A. Windsor, Connecticut.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Tudan, what is your business or profession or occupation? A. Town Clerk of Windsor.

Q. And how long have you been Town Clerk of Windsor? A. Approximately four years.

Q. Do you come in contact with many people of the population of Windsor? A. Yes, our office does.

Q. Daily? A. Yes, daily.

THE COURT: When you say your office - I think he means, do you personally?

MR. McDONOUGH: Yes, Your Honor, that's what it is.

THE WITNESS: Yes, through the office.

Q. You do come in contact with different persons? A. Yes.

Q. About how many people do you say you come in contact? A. In the office itself?

Q. Yes. A. It varies, of course; about thirty people.

Q. And how about going out to lunch at noontime, if you go out to lunch? A. Yes, I usually go over to the restaurant and there again occasionally meet people.

Q. A group of people? A. Yes.

Q. Are you in a position where you can hear discussions among a group of people in the restaurant? A. At times, yes, we can hear the discussions.

Q. And about say, daily, what is the average group you run into in the restaurant? I mean, if you are in a position where you can hear them talk. A. It depends on what side of the restaurant I sit on. When I am normally alone I will eat at the bar and listen to the conversation at the bar, and there it can be about fifteen people around the bar.

Q. That's in addition to the people that come into your office? A. That's right, sir.

Q. Are there any other groups in the evening, such as social or fraternal or political groups that you come in contact with during the course of that twenty-four hours?

A. Well, V.F.W.

Q. In other words, do you think you can safely say you come in contact with fifty or more people a day where you hear discussions or join in them? A. That may be a little high. I'd average it off to about thirty-five people a day.

Q. Have you heard discussions relative to what is known as the Taborsky - Culombe cases, the killings involved? A. When they apprehended the two, Taborsky and Culombe, there was quite a bit of controversy on that subject.

Q. And has there been right along? A. No, it has dropped in the last, I'd say two weeks.

Q. And from the discussions that you heard of the group of people that you testified to and that you joined in, do you know whether or not there appears to be a fixed opinion among the group so far as public discussion is concerned? A. Over-all I would say that the opinion -

MR. BILL: I submit the question should be answered "Yes" or "No".

A. Yes.

Q. What is that opinion?

MR. BILL: Objection.

THE COURT: Oh, let him answer.

Q. What is that opinion? A. That they are guilty.

Q. Has there been any discussion as to whether or not they should even receive a trial? Any opinion, rather?

A. A fast trial.

MR. McDONOUGH: That's all.

MR. BURKE: I have no questions.

MR. WRIGHT: And was there any discussion that they couldn't receive a fair trial? A. No. sir.

MR. WRIGHT: No discussion of that sort?

A. No, sir.

MR. WRIGHT: That's all.

THE COURT: That's all.

EDWARD R. QUINN, a witness having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Edward R. Quinn.

Q. Where do you live? A. Rocky Hill.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Quinn, what is your business? A. General insurance.

Q. And where is your office located? A. Pearl Street.

Q. And do you work for someone or are you in business for yourself? A. Myself.

Q. Special Agent? A. No, General Agent.

Q. General Agent? Now, Mr. Quinn, do you associate with groups of people in the course of your business during the day? A. I do.

Q. And how many about? A. Well, it varies. It might be five to ten a day.

Q. And how about luncheon? Do you came in contact with groups of people? I don't mean that you yourself have lunch with them. Groups of people where you hear discussions? A. Sometimes.

Q. Well, by sometimes, do you do that on the average, daily average? A. Occasionally I'll have lunch alone or I go over to the Club maybe once or twice a week.

Q. Do you hear discussions among people during that luncheon hour? A. I have, yes.

Q. And during the rest of the day or the evening, fraternally or socially or politically are you among groups of people? A. Yes.

Q. During the course of the day between those three groups and any others that might occur to you have you heard discussions relative to Culombe and Taborsky who are on trial in this case for murder? A. I have.

Q. And from those discussions have you found out whether or not those groups had opinions? A. I have.

Q. Opinions as to a trial and for their guilt or innocense. A. Yes.

Q. And what did you find that opinion to be?

MR. BILL: Objection, if the Court please.

MR. McDONOUGH: Claim it.

THE COURT: You may answer.

A. They were guilty.

Q. How about a trial? A. The concensus was that a trial was wasted.

Q. A trial wasted? A. Wasted time.

MR. McDONOUGH: That's all.

MR. BURKE: No questions.

CROSS-EXAMINATION BY MR. BILL:

Q. Did you discuss with any of these people, Mr. Quinn, whether they could get a fair trial in this County? A. No.

Q. Was there any discussion that they could not get a fair trial in this County? A. No.

MR. BILL: That's all.

MR. McDONOUGH: That's all.

PHILIP E. GRAY, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Philip E. Gray.

Q. Where do you live? A. Bloomfield, Connecticut.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Gray, what is your business? A. I am proprietor of a sporting goods store.

Q. Located where? A. Haines Street in Hartford.

Q. How long have you been in that business? A. Twenty-four years.

Q. Now, Mr. Gray, during the course of the day do you come in contact with people? A. I sure do.

Q. And about how many on an average, would you say? A. Oh, thirty, maybe personally. Twenty or thirty.

Q. A day? A. Yes.

Q. And are these groups of people that come into your store and do business with you? A. Yes.

Q. And do you go to luncheon at noon? A. Yes.

Q. You run into groups of people there? A. Yes.

Q. And about how many do you run into on a daily average? A. Well, forty, maybe. I'd say forty.

Q. Forty? And during the evening so far as social engagements or political or fraternal, do you come into contact with groups? A. Lodge Meetings and Fish and Game Clubs and so forth.

Q. Over-all about how many people do you come in contact with a day? A. Well, that's kind of hard to average up because the meetings aren't every day. Say forty or forty-five.

Q. Forty to forty-five people a day? A. Yes.

Q. Have you heard discussions relative to Arthur Culombe and Joseph Taborsky who are indicted and face this Court? A. Yes, I have.

Q. And about the killings that they are charged with? A. Yes.

Q. And have you heard an opinion, a general opinion expressed by the public as shown by this group? A. I have heard quite a bit, being in the Sporting Goods business and the gun angle, I've heard a lot of it.

Q. What is the opinion that you have heard expressed?

MR. BILL? Objection.

THE COURT: Let him answer.

A. They are very guilty, very much so.

Q. Guilty, Very much so? A. Yes.

Q. How about a trial? A. Well, yes, some say yes and some say they shouldn't have a trial.

Q. Has there been any what you would call hostility expressed to them? A. By hostility you mean - I don't quite understand.

Q. Has the attitude been hostile against them?
A. Somewhat, I would say. Some classes, different people, different types.

Q. And what do you say they reflect as far as a trial was concerned? A. Some said they should have a trial and some said they should just do away with them.

MR. McDONOUGH: That's all.

THE WITNESS: They have done enough damage.

DIRECT EXAMINATION BY MR. BURKE:

Q. Mr. Gray, have you noticed in your discussions with these people an opinion as to whether they are prejudiced against these two men?

MR. BILL: Obejection.

THE COURT: Let him answer.

A. I would say they are prejudiced as to the majority.

Q. The majority of them are prejudiced against these two? A. I would say so, from what I hear.

MR. BURKE: That's all.

CROSS-EXAMINATION BY MR. BILL:

Q. Hasn't it been your experience, Mr. Gray, all through life that people are hostile to murders? A. Not necessarily. Where there is a doubt I wouldn't say so, but where there isn't any doubt - that's for the Court.

Q. Was there any discussion by this group that you speak of that these men could not get a fair trial in Hartford County? A. I never heard that.

MR. BILL: That's all.

BY THE COURT:

Q. When you say you have thirty people come into your store, they came in on business? A. Yes, but generally they discuss - you know, the Sporting Goods business is a little different from the run of the mill. They are friendly fellows and they like to talk, and professional men at noon come in and make their purchase and they may stand around the corner talking to one of their friends.

Q. Do you think that every one of the thirty people that came in have discussed this case with you?
A. I wouldn't say everyone, no, sir.

Q. I assume some of them have discussed it from the angle of robbery, the use of guns, because they were interested in hunting? A. Well, that has part to do with it.

Q. They are prejudiced against people who use guns improperly? A. Right.

MR. BILL: No questions.

MR. McDONOUGH: That's all.

JOSEPH CAMILLERI, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Joseph Camilleri.

Q. Where do you live? A. Hartford, 54 Montowese Street.

DIRECT EXAMINATION BY MR. BURKE:

Q. Mr. Camilleri, will you tell me the business you are engaged in? A. Barbering.

Q. Where is your shop? A. 249½ Farmington Avenue.

Q. Would you tell me how many people a day you come in contact with who come into your shop? A. It's an average of about sixty to seventy-five people a day come into my shop.

Q. Of these sixty or seventy-five do you have occasion to discuss the events of the day with them? A. Yes.

Q. Now, you are also a member of some fraternal groups, are you not? A. Several.

Q. In the past couple of months have you been going to these fraternal meetings? A. Yes.

Q. How many people would you say on the average that you meet at these fraternal gatherings? A. Sereval dozen. It all depends which fraternity you go to.

Q. While you are with these people they discuss the current affairs and events of the day? A. Especially among barbers.

THE COURT: Among what?

A. Among barbers.

Q. Now, in the past couple of months have you heard discussions and have you discussed with these people the killings with which Taborsky and Culombe are charged?

A. It has been quite a topic. It has been quite a discussion.

Q. Did you find that there was a fixed opinion among those people as to the guilt or innocence of these fellows?

A. Very much so.

MR. BILL: Objection.

THE COURT: "Yes" or "No".

A. Yes.

Q. Would you tell us what that opinion is?

MR. BILL: Objection.

THE COURT: Mr. Camilleri, how many barbers do you have?

A. I hire four barbers.

THE COURT: How many people do you yourself serve?

A. Not too many.

THE COURT: I don't believe, really, that Barber Shop gossip ought to be brought in as evidence here. I know what Barber Shop gossip is and I think that's all that it can be in a case like this.

MR. BURKE: If Your Honor please, I would like to claim it on the grounds that there are people who are coming in and sitting in the Barber chair who do talk and express opinions, and certainly if there is a fixed opinion among people the Court should hear it, and further he has testified that he has discussed this with many fraternal groups.

THE COURT: Do you object?

MR. BILL: Yes, Your Honor, I object for three reasons to all this type of testimony. One is that these men are not experts on public opinion. Secondly, it is all the rankest type of hearsay. And third, it is usurping the function of the voir dere. That's what we have the voir dere for. These men will have thirty challenges apiece. We are doing the whole thing here in advance.

MR. BURKE: If Your Honor please, we are not asking for hearsay testimony. What we are trying to establish is a fact, and that fact is that there is a fixed opinion among the people of this County that these men could not get a fair and impartial trial, but that the people are prejudiced and hostile to them.

THE COURT: What witness have you produced that has said that, that they cannot get a fair and impartial trial? I have heard no such testimony here.

MR. BURKE: At any rate we have produced witnesses to show that hostility does exist and we have also produced witnesses to show that in the minds of many people they are already guilty.

THE COURT: I will exclude the testimony of this witness because I do not believe that he is competent to give evidence as to public opinion from his position in a Barber Shop nor from his contact with people that he comes into contact with socially.

MR. BURKE: May I have an exception, Your Honor?

THE COURT: You may have an exception.

MR. McDONOUGH: The exception will apply to both defendants, Your Honor?

THE COURT: It applies to both defendants. Do you have any questions?

MR. BILL: No, sir.

FRANK E. CONRAN, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Frank E. Conran.

Q. Where do you live? A. 49 Enfield Street, Hartford.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Conran, what is your business? A. I am an insurance representative.

Q. And how long have you been engaged as an insurance representative? A. Thirty-two years.

Q. What type of insurance do you handle? A. Life and disability coverage.

Q. Do you come in contact with many people during the course of the day, the general public? A. I do.

Q. About how many? A. About twenty.

Q. About twenty in the course of your business? A. Business.

Q. Do you come in contact with other groups of people during the day? A. I do.

Q. What are the other groups? A. Well, like the City Club Luncheon down there, and the Elks and various other places that I go.

Q. During the course of the day about how many people, including the people you do business with and at lunch and the Elks Club and the other clubs, about how many do you come in contact with? A. Twenty-five to thirty, I'd say.

Q. Have you heard discussions relative to the coming trial of Arthur Culombe and Joseph Taborsky? A. I have

Q. And the killings with which they are charged? A. I have.

Q. And from listening to those discussions have you found whether or not there was an opinion expressed by this group? A. Yes.

Q. And what is that opinion?

MR. BILL: Objection.

THE COURT: Let him answer.

A. The general opinion is that they are definitely guilty, should be tried as quickly as possible.

MR. McDONOUGH: That's all.

MR. BURKE: No questions, Your Honor.

MR. BILL: Has there been any opinion expressed that they could not get a fair trial in Hartford County?

A. There has not.

MR. BILL: Thank you.

DAVID RYAN, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. David Ryan.

Q. Where do you live? A. Seymour Street, Hartford.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Ryan, how long have you lived in Hartford?
A. All my life.

Q. What is your business or occupation? A. I am employed by Yellow Cab as a cab driver.

Q. And how long have you been working for the Yellow Cab Company? A. Six and a half years.

Q. In the course of your work do you come in contact with a portion of the public in Hartford? A. I would say in my work an average of thirty-five people a day.

Q. And do you have - have you heard discussions from the people that you mentioned regarding Arthur Culombe and Joseph Taborsky now facing trial for murder?
A. I have.

Q. Have you heard discussions about their coming trial? A. Not too much about the trial itself. Just that they said - most of the people -

MR. BILL: Now -

Q. What were the discussions about, the killings or the trial? A. It was about the killings before they were

apprehended and after they were taken into custody, the majority of people -

MR. BILL: Now I object.

BY THE COURT:

Q. Let me ask you, you say you see about thirty-five people a day? A. On an average, Your Honor.

Q. Those are customers in your cab? A. Yes, sir.

Q. Do you discuss matters with your customers that you drive, all of them? A. I don't unless the customers start to talk first.

Q. Of the number that you drive how many people get in conversation with you in regard to a matter like this?
A. I'd say about two-thirds of the people.

Q. About twenty or so? A. Yes, sir.

Q. Who discuss it with you, is that right?
A. I would say so.

THE COURT: Proceed.

BY MR. McDONOUGH:

Q. And with more than one passenger in the cab have you heard it discussed between the passengers? A. I have.

Q. Now, from those discussions have you heard an opinion expressed as to the guilt or innocence of these accused or to their manner of trial? A. I have.

Q. What was that opinion?

MR. BILL: Objection.

THE COURT: I'm going to sustain the objection. I do not believe that a man in his position is able to reflect public opinion from the customers that he may drive in his cab.

MR. McDONOUGH: Exception please. That's all. Thank you.

THE COURT: You may have an exception.

EDWARD P. QUINN, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Edward P. Quinn.

Q. Where do youlive ? A. West Hartford.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Quinn, what is your occupation? A. Registrar of Voters in West Hartford.

Q. How long have you been Registrar of Voters in West Hartford? A. About fourteen years.

Q. You are a former Deputy Sheriff in this County? A. That's right.

Q. About how many people a day in the course of your duties as Registrar of Voters do you come in contact with? A. Oh, I don't know as though I could say how many a day, because there's quite a few.

Q. What? A. Quite a few we see during the day, but we are in and out most of the time.

Q. About how many people a day from all groups, fraternal, political or your duties as Resigtrar of Voters, do you come in contact with during the day? A. I should say probably about forty.

Q. And that group of people that you come in contact with during the day, do you join in discussion with some of them or listen to discussions with some of them? A. With some of them, yes.

Q. Have you heard an opinion expressed relative to Arthur Culombe and Joseph Taborsky who are facing trial for first degree murder? A. I have.

Q. And the killings with which they are charged? A. I have.

MR. BILL: I object at this point, Your Honor. This will come up again and I'd like to have this question framed properly. An opinion expressed might be a single opinion. This will be a general opinion.

Q. Have you heard a general opinion? A. That's right.

Q. "Yes" or "No". A. Yes.

Q. What is that opinion?

MR. BILL: Objection.

THE COURT: Let him answer.

A. I'd say that they feel the two defendants are guilty.

Q. And how about a trial? Have you heard any expression as to a trial? A. A few have said they should be shot without a trial, but I think the majority of the people want a trial, a fair trial for them.

MR. McDONOUGH: That's all.

MR. BILL: The majority of these people think they can get a fair trial and should have a fair trial? A. I think they do.

MR. BILL: That's all.

MR. McDONOUGH: That's all, Mr. Quinn.

ARTHUR J. REEVE, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Arthur J. Reeve.

Q. Where do you live? A. Burlington, Connecticut.

DIRECT EXAMINATION BY MR. BURKE:

Q. Would you tell us your official position in Burlington, Mr. Reeve? A. I am Chairman of the Board of Education and Town Clerk.

Q. You have held those positions for quite some time? A. I have.

Q. How big a town is Burlington? A. I think the last census gave it at eighteen hundred and some odd.

Q. In your capacity as Town Clerk and Chairman of the Board of Education do you have occasion to meet the people of Burlington? A. Some of them.

Q. How many would you say you meet in a week or a day? A. That varies greatly. I might meet one or two some days and other days fifteen or twenty.

Q. And how about at these town gatherings, such as Town Meetings? Have you had any recently? A. Yes, we have.

Q. And haven't you had also Zoning Hearings lately? A. We have.

Q. And at those meetings do you have occasion to meet a great number of people from Burlington?

A. I wouldn't say a great number. Perhaps meet and talk with personally a dozen or fifteen.

Q. Now, do you also belong to fraternal groups in Burlington? A. I belong to the American Legion and the Men's Club.

Q. Do you have occasion to meet with the men of that group? A. I do.

Q. Do you belong to the Volunteer Fire Department up there? A. I believe I am a member but I am not active.

Q. Now, Mr. Reeve, in your capacity as Town Clerk and meeting the people that you have, have you found that there exists in Burlington an opinion regarding the killings and the alleged murderers, Taborsky and Culombe?

A. No, I would say not.

Q. You found no opinion to exist? A. I haven't discussed it with enough people - very few people. I don't believe over one or two have mentioned it to me.

MR. BURKE: That's all.

MR. BILL: There has been very little discussion in Burlington, Mr. Reeve, you say? A. Very little. As far as I am concerned I have heard very little about it.

THE COURT: I don't know if you heard him. He said he had discussed it with perhaps not over one or two.

MR. BILL: That's all.

THE COURT: That's all.

THE WITNESS: May I be excused?

THE COURT: You may be excused.

HAROLD W. SCHEIDEL, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Harold W. Scheidel.

Q. Where do you live? A. 31 Gildersleeve Avenue, Collinsville.

DIRECT EXAMINATION BY MR. BURKE:

MR. Scheidel, you operate a market in Collinsville? A. I do, sir.

Q. And in the course of your business do you meet the people of Collinsville each day, some of them? A. Yes, sir.

Q. About how many do you talk to a day that come into your store? A. Well, it varies, sir. The early parts of the week there isn't too many and I would say that to talk to perhaps it would average maybe fifty.

Q. Do you belong to fraternal groups or civic groups up there in Collinsville? A. I belong to a lot of them.

Q. Have you had occasion to go to meetings of those groups in the past couple of months? A. Not too many, sir.

Q. Do you have occasion to meet people on the street or when you are at meetings? A. Well, I don't see too many on the street because my occupation is a one man operation with a little part time help. Consequently I work most of the time and I've got very little time to attend these affairs or to converse with people.

Q. How about on Sundays at church? Do you see people after the service? A. I see a lot of them but I am open Sunday morning and I am quite busy waiting on them. We don't get a chance to say anything except to say "Hello".

Q. In meeting the people that you do at your store have you had occasion to discuss with them or overhear discussions by them of these killings and the alleged killers, Taborsky and Culombe? A. I want to say and I mean that I have perhaps overheard more than what I have taken part in discussing.

Q. You have overheard your customers talking?
A. Among themselves.

Q. And did you find from overhearing these customers talk that there was an opinion regarding these fellows,

existing in Collinsville? A. Somewhat, but most of them seemed to be rational about the whole thing. The first thing they would say, "Well, they got them, let's get rid of them," things of that nature. But I personally don't take too much active part in it. Well, simply because I don't have the time a lot of times.

Q. That's what you hear them saying, "They got them, let's get rid of them"? A. Right.

Q. Did they express any opinion as to whether or not they were able to receive a fair and unprejudiced trial in this County? A. I haven't heard that mentioned, sir.

Q. Did they show any animosity, prejudice or hostility against these two men? A. In some of the discussions which I overheard I'll say they did, and they would always say to me, "Well, are you afraid"? as part of their comments, even though I was not in the discussions, and I would say "Yes".

Q. Did you find that there existed in Collinsville a state of terror while these killings were going on?

A. Let me say this. I was terrified while they were going on, because I have to face the people.

MR. BILL: I object to this, Your Honor. This is getting down to single conversations now and personal opinions.

THE COURT: Have you heard any discussions as to whether they could have a fair trial?

A. I did not, Your Honor.

THE COURT: Have you heard any discussions that they could not have a fair trial in Hartford County?

A. I did not, Your Honor.

MR. BURKE: Did you hear any discussions regarding any prejudice against these two fellows or any expression

of the opinion that they are already guilty before trial?

A. I cannot pinpoint anything of that nature, sir.

MR. BURKE: Thank you.

MR. McDONOUGH: No questions.

MR. BILL: No questions.

EDWARD F. KILLIAN, JR., having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name? A. Edward F. Killian, Jr.

Q. Where do you live? A. East Granby, Connecticut.

DIRECT EXAMINATION BY MR. BURKE:

Q. Mr. Killian, do you hold an official position in East Granby? A. Yes, sir, I do.

Q. What is it? A. Member of the Board of Selectmen.

Q. And you are the first Selectman of East Granby for quite some time? A. Yes, sir.

Q. And you are engaged in politics up there?

A. Yes, sir, more or less.

Q. Interested in political affairs?

THE COURT: I assume he is another Demecrat.

MR. BURKE: Yes, sir, he is.

THE COURT: Just like his father.

Q. Now, Mr. Killian, in the course of your business during the day do you have occasion to talk to the citizens of East Granby? A. In the course of my business during the day, Mr. Burke, no. Politics in East Granby is a part time job.

Q. How about at night, did you talk to the citizens of East Granby? A. Yes, sir, I did.

Q. How many on an average would you say you talked to during the week? A. That, of course, would depend on the functions scheduled for the week. I would say on an average per week probably twenty-five to thirty.

Q. In the past month or so you have been engaged in caucuses, have you not; up there? A. No, sir.

Q. No Caucuses? A. We are a fall town.

Q. Have you had meetings of political groups?
A. Political and social groups, yes, sir.

Q. And how many people would you say you have had occasion to talk to in a week through that medium?
A. To talk privately or have private conversations with, I would say probably thirty.

Q. Do you have occasion to overhear conversations that these groups have or overhear other people in East Granby talking about events of the day? A. Well, yes, sir and of course at my place of employment, too.

Q. And how many people would you say on an average that you overhear discussing events of the day, especially these killings and the apprehension of these two men, Taborsky and Culombe? A. Well, at the time of the apprehension and the week following, of course, it would be a high rate. It was quite a topic of conversation. Probably sixty or seventy.

Q. Did you find that there was a fixed opinion as to these two men?

THE COURT: "Yes" or "No".

A. Yes.

Q. Yes. A. Yes.

Q. And what was that opinion?

MR. BILL: Objection.

THE COURT: Let him answer.

A. The opinions of necessity I think would vary. Probably the most charitable opinion would be, that I have heard or I am familiar with, would be to give them a quick trial and sentence them, but that would be the most charitable.

Q. What is the general opinion that is not quite that charitable?

MR. BILL: Well, now, what proportion?

THE COURT: I don't understand. Are you objecting?

MR. BILL: I object, Your Honor.

THE COURT: I don't think that's a proper question.

MR. BURKE: I am asking for the general opinion of these groups.

THE COURT: If you stop there you may answer.

A. The general opinion would be that the men were guilty.

Q. And have you heard any opinion or is there opinion existing that you heard discussed as to whether or not there exists in this County any prejudice or hostility towards these two men? A. No, sir.

Q. You haven't heard any? Have you heard any opinion as to whether or not they could obtain a fair trial in this County? A. No, sir. The assumption is they would get a fair trial.

MR. BILL: I object to any assumption.

THE COURT: I'll let it stand. The assumption is they

would get a fair trial?

A. Yes, sir.

MR. BILL: I withdraw m objection.

MR. BURKE: I move it be stricken. That's all.

MR. BILL: No questions.

MARGARET K. SMITH, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Mrs. Margaret K. Smith.

Q. Where do you live? A. I live in East Granby.

DIRECT EXAMINATION BY MR. BURKE:

Q. Mrs. Smith, could you tell us if you hold any official position in the town, political or otherwise? A. Well, yes, I am the Democratic Town Chairman of East Granby.

Q. As such do you have occasion to talk to the people of East Granby? A. Many times.

Q. And how many would you say on an average you talk to during a week in the past couple of months?

A. Oh, that would vary. It would depend on how many meetings we had, and functions in the town.

Q. Have you been active in the last couple of months in East Granby on the Committee? A. Yes, I have.

Q. Do you have occasion to go out seeking new voters?

A. Well, not recently. we haven't tried.

Q. How many people - do you belong to civic groups up there and Parent Teacher's Associations and so on?

A. Yes, sir, I do.

Q. And have they had meetings recently that you attended? A. Yes, I have.

Q. And how many people would you say you have occasion to meet in East Granby during any week?
A. Oh, perhaps twenty or twenty-five.

Q. How big is East Granby? A. About a population of seventeen hundred people.

Q. In your talking with the people of East Granby have you had occasion to overhear their discussion of the events of the day? A. Yes, sir.

Q. And have you had occasion to overhear discussions regarding the killings and the two men apprehended for them? A. Not too much in general discussion other than they were very happy when they were apprehended.

Q. Do you find there exists any fixed opinion in East Granby as to whether or not they could obtain a fair trial in Hartford County? A. No, sir.

Q. There is not a fixed opinion that you could discover? A. Not that I could.

Q. Do you find there is a fixed opinion in East Granby regarding any prejudice or hostility against these two men?
A. No, sir.

Q. Was there any fixed opinion in East Granby that you ascertained as to their guilt or innocence? A. Only within my own family.

Q. What's that? A. Only within my own family.

Q. But not general opinion? A. No, sir.

MR. BURKE: That's all, thank you.

MR. BILL: No questions.

GEORGE W. HULL, having been sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. George W. Hull.

Q. Where do you live? A. Burlington.

DIRECT EXAMINATION BY MR BURKE:

Q. Mr. Hull, how long have you lived in Burlington?
A. Thirty-four years.

Q. You have been quite active in public affairs in Burlington, have you not? A I have.

Q. What official positions do you now hold if any?
A. Chairman of the Board of Assessors.

Q. And do you hold a position or did you, with the Democratic Town Committee? A. I was formerly Chairman.

Q. And you at one time held an official position with the Republican Town Committee? A. I was also Chairman of the Republican Town Committee at one time.

Q. You take quite an active interest in civic affairs in Burlington, do you not? A. Yes.

Q. And recently Burlington has had meetings regarding zoning, has it not? A. That's right.

Q. And these meetings are well attended?
A. Quite well attended.

Q. Do you have occasion to speak to the people of Burlington in your going around as an assessor? A. Yes.

Q. And about how many people would you say that you speak to on an average over a week? A. That is divided between Bristol and Burlington. In other words, our office is in Bristol and our home is in Burlington. Probably on an average I talked to fifteen to twenty-five people a day.

Q. You are in the insurance business in Bristol?

A. No. I manage the real estate end of the business and Mr. Hull manages the insurance end.

Q. Your office is in Bristol? A. That's right.

Q. Do you occasionally take lunch at restaurants in Bristol? A. Restaurants in Bristol. I am an official at the cafeteria in the school in Burlington.

Q. How many people would you say, average a week, do you talk to in Bristol and Burlington? A. Oh, somewhere between one and two hundred.

Q. And do you find, Mr. Hull - oh, you are also a member of fraternal and civic groups? A. Yes.

Q. You are quite active in civic affairs of Bristol as well, aren't you? A. Yes.

Q. And you have occasion to talk to many people in Bristol through that medium? A. That's right.

Q. Do you find in your discussions with people overhearing discussions by other people that there is a fixed opinion in Bristol and Burlington regarding the guilt or innocence of Taborsky and Culombe? A. I'd like to put it this way, my opinion that I have expressed, and I have expressed it frequently.

MR. BILL: The answer should be "Yes" or "No", to start with.

THE COURT: You have a fixed opinion yourself?

A. Yes, I have, and I have discussed it with a good many people. Nobody disagreed with me.

Q. What is the fixed opinion you have found among the public that you meet and talk to each day?

MR. BILL: Objection.

MR. BURKE: I claim it, Your Honor.

THE COURT: Certainly his fixed opinion isn't anything that the Court can say represents public opinion in his community.

MR. BURKE: I am asking for his fixed opinion passed by him in the community in his discussions.

THE COURT: He says he doesn't know that. He has merely expressed his own opinion.

A. Nobody has disagreed with my opinion. They all agreed with me.

BY THE COURT:

Q. How do you know they agreed with it? A. They said so, expressed their opinion and I had an opportunity to tell what mine was.

Q. Go ahead. A. I expressed the opinion that a mad killer like a mad dog should be executed as speedily as possible.

MR. BURKE: Do you find that to be the fixed opinion of the people you talked to?

A. Yes.

BY THE COURT:

Q. You are a public official? A. Yes, I am.

Q. You feel that a mad killer or any kind of a killer should have a fair trial under the law? A. I feel for the protection of society and innocent people, that transcends the right of everyone.

Q. You don't believe because a man is a killer he should have a fair trial? A. Not a killer on a wholesale basis. I'd be tough with him.

Q. You think he should be executed without any trial? A. A trial as speedily as possible.

Q. You are a public official and you believe a man shouldn't get a fair trial under the law? A. I believe he should have a speedy trial.

Q. Is there anything in your opinion that would preclude him from getting a fair trial in Hartford County?

A. Personally I think it is a state-wide case and opinion would not vary too much throughout the commonwealth. It's a small state.

Q. You think the prejudice would be just as large? You are a public official? A. I am.

Q. You believe in upholding the law? A. I do.

Q. You feel a man accused of crime should get a fair trial? A. Yes, a fair trial, but a very speedy one in this case.

Q. That's within the process of the Judicial Department and the State's Attorney. Do you feel that a man should get a fair trial? A. Yes.

Q. Do you think he could get one in Hartford County?

A. I think opinion is very much fixed in Hartford County. No doubt about that.

Q. You got that from your own fixed opinion as you have expressed it to various people? A. That's right.

BY MR. BURKE:

Q. Do you find, Mr. Hull, there exists a fixed opinion of prejudice and hostility against these two men?

A. Naturally.

Q. Do you find also that there is a fixed opinion as to the guilt of these men? A. I don't think there is any doubt about it in the mind of most of the people.

Q. Do you find an opinion expressed as to whether or not there could be obtained a jury of unprejudiced minds

in this case? A. I heard no discussions on the subject whatsoever, Mr. Burke.

MR. BURKE: That's all.

MR. McDONOUGH: No questions.

CROSS-EXAMINATION BY MR. BILL:

Q. Do I understand, Mr. Hull, that you go around preaching this idea to everybody you see? A. No, but quite frequently I have expressed my opinion the same as I do on other matters.

Q. You do a lot of talking among the public?
A. I do.

Q. And if these murders had happened in Bridgeport would you still feel the same way about these men?
A. Probably not so intense as if they were committed in this area.

Q. You still feel they should be taken out and shot?
A. I don't say shot. I think the process is electrocution in this State.

Q. Before you came here this morning did you discuss with any of the lawyers in this case what you were going to say here? A. No.

Q. You had no idea what you were going to testify about? A. Not the slightest.

Q. You feel this matter is state-wide? A. To some degree, yes.

Q. Do you travel around the state yourself?
A. Yes.

Q. And you still preach this gospel wherever you go?
A. No. I have been attending meetings and other gatherings.

MR. BILL: That's all.

MR. BURKE: That's all. May Mr. Hull be excused, Your Honor?

THE COURT: He certainly may.

RAYMOND MARCOTTE, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Raymond Marcotte.

Q. Where do you live? A. Bristol.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Marcotte, what is your busi[redacted] A. I am the Hartford County Sealer of Weights and Measures.

Q. You were formerly a deputy sheriff in this county? A. That's correct.

Q. Where is your office located? A. In the County Building.

Q. Here in this building? During the course of the day do you come in contact with any segment of the population here in Hartford County? A. Yes, I do.

Q. What part of the county? A. Well, within the western part of the county.

Q. You are not confined to the city of Hartford, are you? A. Oh, no.

Q. You live n Bristol and you work out of Hartford? A. That's correct.

Q. And by the western segment of the county what towns does that take in? A. Avon, Simsbury, West Hartford, Plainville, Farmington, Southington.

Q. And during the last two or three months, since December 15, about how many people during the course of

the week, your business week, do you come in contact with?

A. About sixty to seventy-five.

Q. That's in the course of a business week?

A. That's correct.

Q. Have you heard Arthur Culombe and Joseph Taborsky, the defendants in this case, discussed?

A. Somewhat.

Q. By somewhat what do you mean? I don't mean that you engaged in discussions. Imean that you heard people talking about or to talk with you? A. I probably heard about, say from six to ten at the most, talk about it.

Q. You mean all during this period of time?

A. Yes.

Q. Do you belong to any fraternal organizations?

A. Yes, I do.

Q. Have you heard any discussions among other people where you have been to those meetings? A. I haven't been to any in this past month or so.

Q. Have you heard a fixed opinion expressed generally? A. From the conversations that I heard, an opinion or a feeling was expressed.

Q. And what was that?

MR. BILL: Objection, Your Honor.

THE COURT: I'll exclude that testimony. It is too limited.

MR. McDONOUGH: May I have an exception?

THE COURT: You may.

MR. McDONOUGH: That's all, Mr. Marcotte.

ROBERT E. FOLEY, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Robert E. Foley.

Q. Where do you live? A. Southington.

DIRECT EXAMINATION BY MR. BURKE:

Q. Mr. Foley, would you tell us if you have an official position in the town of Southington? A. I do.

Q. What is it, please? A. Town Clerk and Treasurer.

Q. Do you hold any other positions with any official bodies in Southington? A. Secretary of the Chamber of Commerce.

Q. And how about political organizations?
A. Secretary of the Democratic Town Committee.

Q. How about civic organizations? A. Well, the Chamber.

Q. Do you belong to the Exchange Club down there?
A. The Lions.

Q. Do you belong to any other fraternal or civic or service organizations? A. A number.

Q. Now, in the course of your business, your official business, you come in contact with the people of Southington? A. Yes.

Q. About how many people do you come in contact with through your official position as Town Clerk?
A. Oh, thirty or forty a day.

Q. And do you meet people at these gatherings, political gatherings, as well? A. I do.

Q. And at the civic gatherings? A. Yes.

Q. And over the past two or three months could you give me an average number that you have met of citizens

of Southington, an average number a week? A. Oh, a hundred, perhaps.

Q. And in your meeting of these people and being at meetings were you in a position to overhear discussions and to discuss events of the day with these people? A. Yes.

Q. And among the events that you discussed and have heard discussed have you heard discussed the killings and the apprehension of the two men, Taborsky and Culombe? A. Yes.

Q. Now, from your discussions and hearing discussions could you tell us whether or not there exists a fixed opinion in Southington regarding the guilt or innocence of these men? A. Yes.

Q. And what is that opinion?

MR. WRIGHT: Objection.

MR. BURKE: I claim it, Your Honor.

THE COURT: Let him answer.

A. There is an opinion of guilt.

Q. Do you find that there exists any fixed opinion of prejudice or hostility against these men? A. I would say the people are aroused.

Q. Do you or have you heard any discussions or fixed opinion as to whether or not a fair and impartial jury could be impanelled in Hartford County? A. No.

Q. Have you heard whether or not these men should be given a fair trial, any fixed opinion in Southington? A. I can't say that I have.

Q. From your discussions would you say there is a fixed opinion or an air of prejudice and hostility against these two men?

MR. WRIGHT: That question has been answered, Your Honor.

THE COURT: It has been answered and, of course, it is leading and suggestive. Do you claim the question?

MR. BURKE: In the light of Your Honor's comment I don't dare.

THE COURT: Do not fear me. You go ahead and ask any question you wish.

Q. Mr. Foley, have you found in your discussions and overhearing discussions that there exists a fixed opinion in Southington regarding these two men, as to hostility or prejudice?

MR. WRIGHT: Objection. It's been answered.

MR. BURKE: I'll claim it, Your Honor.

THE COURT: It is certainly leading, is it not?

MR. BURKE: It is leading in form.

THE COURT: Why don't you just ask him if there is a fixed opinion and what it is, and let him give the answer.

MR. BURKE: All right.

Q. Is there a fixed opinion?

MR. WRIGHT: Objection.

A. Yes.

MR. WRIGHT: Objection.

THE COURT: Let him answer.

MR. BURKE: And tell me, what is the fixed opinion among the people of Southington regarding this case and these men?

THE WITNESS: That they are guilty.

Q. Is that all? A. Generally.

MR. BURKE: I think that's all.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Well, Mr. Foley, you said "generally." Is there anything else that you can tell us about this opinion?

A. No. I would say that it is just an opinion of definite guilt.

Q. And in these discussions that you have heard, what type of discussions have they been? By that I mean the intent, the tenor of them? A. I don't know as I understand your question.

MR. McDONOUGH: I'll withdraw the question.

BY THE COURT:

Q. You meet about a hundred people a week, you think, in the course of your traveling around Southington?

A. At least.

Q. Southington is a rather compact community, is it not? A. It is.

Q. Do you hear expressions of opinion from all the people that you meet during the week? A. Not necessarily all of them, Your Honor.

Q. It would be what? Just a few people that you yourself discuss it with?

MR. BURKE: Your Honor, I couldn't hear your question.

Q. Would it be a few people that you come in contact with, or is it generally discussed among everybody that you come in contact with? A. It has been quite generally discussed.

Q. It was a topic of great interest? A. I would say.

Q. Was there any expression of opinion as to whether or not these men could get a fair trial in Hartford County? A. No.

Q. Was there any expression of opinion that they could not get a fair trial in Hartford County? A. No.

MR. WRIGHT: The discussions, Mr. Foley, have they died down somewhat in the last few weeks?

THE WITNESS: I would say they have.

MR. WRIGHT: Thank you.

THE COURT: That's all.

MR. BURKE: You may be excused, Mr. Foley.

EDWARD SERENET, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Edward Serenet.

Q. Where do you live? A. Newington, Connecticut.

DIRECT EXAMINATION BY MR. BURKE:

Q. Mr. Serenet, do you have an official position in the town of Newington? A. Yes, Town Clerk.

Q. Do you belong to any political and civic groups? A. Some civic.

Q. Which ones are they? A. Kiwanis and the Volunteer Fire Department.

Q. In the course of your duties as town clerk do you have occasion to come in contact with the people of Newington? A. Some, yes.

Q. About how many a day or a week would you say you come in contact with? A. At least ten a day on the average.

Q. And do you have any contact with the people of Newington at noontime? A. No.

Q. How about in the evenings at civic meetings?
A. I haven't been very active lately.

Q. You haven't been very active lately? A. No.

Q. But do you have other occasions where you meet or discuss or overhear discussions by citizens of Southington? A. Southington?

Q. I mean Newington? A. No.

Q. So that you talk to about ten citizens of Newington a day on the average? A. Right.

Q. Have you heard - overheard discussions by the citizens of Newington regarding these killings that have been going on? A. No.

Q. You haven't heard any discussions? Do you know whether or not there exists any fixed opinion in Newington as to the killings and prejudice existing against the two men apprehended? A. There was so little discussion on it I don't think there is any opinion as far as my office or I am concerned.

Q. As far as you know, you don't know of any opinion? A. No.

MR. BURKE: That's all.

MR. McDONOUGH: No questions.

MR. BILL: In other words, there has been very little discussion of this whole matter in Newington, is that correct?

MR. BURKE: I object to that. He didn't say that.

MR. BILL: That's what he said.

MR. BURKE: He didn't.

THE COURT: His knowledge is so limited that I don't believe that his opinion is of any value, anyway.

MR. BURKE: Is Your Honor going to take a recess?

THE COURT: I got so interested in the witnesses that I forgot all about the recess. I think I'll do it now.

(RECESS: 11:38 - 11:55 A.M.)

ALBERT H. CURTISS, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Albert H. Curtiss.

Q. Where do you live? A. Simsbury.

DIRECT EXAMINATION BY MR. BURKE:

Q. Mr. Curtiss, do you hold an official position in the Town of Simsbury? A. I do.

Q. What is it? A. First Selectman.

Q. Do you hold any other official positions? A. I do.

Q. What are they? A. President of the Association of Cities and Towns of the State of Connecticut.

Q. Do you belong to any civic or fraternal groups in Simsbury? A. I do.

Q. And what are they? A. Democratic Party, Saint Mark's Lodge. That's all at the present time.

Q. And in your capacity and duties as First Selectman do you have occasion to meet the people of Simsbury?
A. I do.

Q. And how many of the citizens of Simsbury do you talk with or meet in the course of a day or week?
A. About this case or just talk with?

Q. Just talk with? A. A minimum of about fifty a day, seven days a week.

Q. About fifty a day, seven days a week? And does that include fraternal meetings and political meetings as well? A. That does.

Q. In your meeting of these people do you have occasion to overhear discussions of events of the day?
A. I do.

Q. Have you heard or overheard any discussions regarding these killings and the apprehension of Culombe and Taborsky? A. I have.

Q. Do you find, Mr. Curtiss, that there is a fixed opinion in Simsbury regarding whether or not there is any prejudice or hostility against Taborsky or Culombe?
A. I do not.

Q. You do not find that there is any? A. That's right.

Q. Do you find there is any fixed opinion in Simsbury as to whether or not these men should receive a trial?
A. I do.

Q. And what is that opinion? A. They should have a fair trial.

Q. Do you find there is any fixed opinion in Simsbury regarding the guilt or innocence of these men? A. I do.

Q. What is that opinion? A. That they are guilty.

Q. Do you find whether or not there is a fixed opinion in Simsbury as to whether or not an unprejudiced jury could be obtained in this county for the trial of these men?
A. I haven't found that to be true.

MR. BURKE: I think that's all.

MR. McDONOUGH: No questions.

MR. BILL: In other words, Mr. Curtiss, it is the general opinion in Simsbury that these men should receive a fair trial, is that correct?

THE WITNESS: Right.

MR. BILL: Thank you.

MR. BURKE: Is there any opinion in Simsbury as to whether or not they could receive a fair trial?

MR. BILL: You asked that question, Mr. Burke. Object to it.

THE WITNESS: I cannot answer that.

MR. BURKE: That's all.

PATRICK J. HOGAN, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Patrick J. Hogan.

Q. Where do you live? A. Bristol.

DIRECT EXAMINATION BY MR. BURKE:

Q. Mr. Hogan, do you hold an official position in Bristol? A. Yes.

Q. What is it? A. Domestic Relations Officer.

Q. Do you hold any position in any political party? A. Yes.

Q. What is it? A. Democratic Town Chairman.

Q. Do you belong to any civic or fraternal groups in Bristol? A. Yes.

Q. What are they? A. Knights of Columbus, co-chairman of the Industrial Community Chest Drive.

Q. In your official capacity do you have occasion to meet the citizens of Bristol? A. Yes, sir.

Q. About how many a day or a week do you meet? A. Well, on an average I'd say about twenty-five or thirty.

Q. Do you have occasion to meet citivens of Bristol at meetings of these civic and political groups that you belong to? A. Yes, sir.

Q. About how many do you meet a week, average? A. Well, it varies on the kind of meetings we have. Sometimes it's a hundred, sometimes fifty, sometimes twenty-five. It's pretty hard to give you an average.

Q. Do you feel that in these meetings and in your official position that you meet a cross-section of the citizenry of Bristol? A. Yes, sir.

Q. Now, Mr. Hogan, do you have an opportunity to overhear and partake in discussions with the citizens of Bristol on current events? A. Yes, sir.

Q. Have you overheard or participated in any discussions regarding the recent killings and the apprehension of Taborsky and Culombe? A. I haven't participated on too many occasions, but I overheard a lot of people discuss it.

Q. Would you say there is a fixed opinion in Bristol regarding the guilt or innocence of these men? A. From the conversation I have heard I would say yes.

Q. What is that opinion?

MR. BILL: Objection.

MR. BURKE: Claim it.

THE COURT: How many conversations would you say?

THE WITNESS: Well, it varies, Your Honor.

Q. All told how many conversations have you heard? A. Oh, approximately twenty-five.

Q. That is, conversations that you did not participate in? A. That's right.

Q. You merely overheard it? Oh, let him answer.

BY MR. BURKE:

Q. What is the opinion, Mr. Hogan? A. What was the question again?

(Question read by reporter)

A. Yes.

Q. What is the opinion? A. Guilty.

Q. Is there any fixed opinion, feeling, as you hear it or see it in Bristol, regarding prejudice or hostility against these men? A. No, I wouldn't say so.

Q. Is there any fixed opinion in Bristol or feeling that these men could or could not receive a fair trial in Hartford County? A. I would say that the opinion is that they could receive a fair trial in Hartford County.

Q. They could receive a fair trial? Did you in the past, since these killings have been going on, did you in your discussions find any opinion among the citizens of terror and apprehension from these men?

THE COURT: Just a minute. His discussion, as I understand it, have been limited to very few. Is that correct?

THE WITNESS: That's right, Your Honor.

MR. BURKE: He did testify, Your Honor, that in his discussions there were cross-sections of the citizens of Bristol.

THE COURT: I understand his testimony to be more

of conversations he overheard than those in which he himself participated. Is that correct?

THE WITNESS: That's right.

THE COURT: I don't believe from the few discussions he has had that he is able to answer the question.

Q. Are you able to answer it, Mr. Hogan?

A. What is the question, again, and I can tell you whether I can answer it or not?

(Last question read by Reporter)

THE COURT: His discussions have been so limited that I don't believe he is in a position to answer that question. Are you in a position to answer a question like that?

A. I'd say no, Your Honor.

Q. In your discussions and overhearing discussions of the cross-section of citizens of Bristol have you ascertained whether or not there is any opinion that these men should not receive a trial? A. Well, I'll say the opinion is -

MR. BILL: I object to that, Your Honor. It's the general opinion.

Q. What is it? A. The opinion is that they should receive a fair trial, Your Honor.

MR. BILL: Withdraw the objection.

MR. BURKE: I think that's all.

MR. BILL: No questions.

MR. McDONOUGH: No questions.

HENRY J. CARINI, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Henry J. Carini.

Q. Where do you live? A. Glastonbury.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. Mr. Carini, what is your occupation or business? A. Building and real estate.

Q. Do you deal with the general public? A. Somewhat.

Q. And during the course of the week how many people or groups are you associated with, approximately? A. Oh, fifty or seventy-five.

Q. Are those people that you talk with? A. Generally.

Q. And are there other groups like restaurants where you go to where even though you don't talk with them you overhear discussions, general discussions? A. General discussions.

Q. Where would they be? Restaurants and lodge meetings and the like? A. That's right.

Q. Have you heard in the past few months discussions or participated in discussions with reference to Arthur Culombe and Joseph Taborsky, charged with murder? A. Very little.

Q. That is, you mean by that that you discussed it or you heard discussed? A. That's right.

Q. Both? A. Both.

Q. By "very little" what do you mean? Half a dozen times or more or less? A. Well, probably ten or a dozen times.

Q. And were these groups of people that you heard in the discussions, or one or two? A. Well, it's among groups, just a few people.

Q. By a few people what would you say? A. Oh, perhaps four or five.

Q. And you heard that about a dozen times, approximately? A. That's right.

Q. And from those discussions did you obtain an opinion as to whether or not there was a fixed opinion as to the guilt or innocence of the accused? A. I would say yes.

Q. And what was that opinion?

MR. BILL: Objection.

THE COURT: That's excluded. I don't believe he is in a position to give a general statement of opinion in the community on the basis of his limited experience.

MR. McDONOUGH: Exception.

THE COURT: Exception may be noted.

MR. McDONOUGH: That's all, Mr. Carini.

MR. BURKE: No questions.

THE COURT: That's all.

GEORGE M. GARRITY, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. George M. Garrity.

Q. Where do you live? A. Kensington section of Berlin.

DIRECT EXAMINATION BY MR. BURKE:

Q. Do you hold any official or political position in the town of Berlin? A. I have a small part time job in the town.

Q. What is the position? A. Prosecutor of the Town Court. We hold a session one night a week.

Q. What business are you in? A. I am employed in an industrial firm, Fafnir Bearing, New Britain.

Q. In the course of your business - do you belong to any civic groups? A. None at all.

Q. Do you belong to any fraternal groups?
A. None at all.

THE COURT: No political?

THE WITNESS: Or political, I am on the Democratic Town Committee.

Q. Mr. Garrity, you are here in answer to a subpoena?
A. Right.

Q. You haven't talked to us about this matter at all?
A. No, I haven't talked to you.

Q. Mr. Garrity, in the course of your business, both official and in your occupation, do you have occasion to meet people in Berlin? A. Yes, I do.

Q. And about how many a day or average a week would you meet? A. Well, in my capacity as prosecutor we hold sessions one night a week and at that time I speak to very few people from Berlin. We get mostly people from other parts of the state.

Q. In your occupation - A. In my occupation, I work in New Britain and I come in contact with, in our office, probably fifty or sixty people. At different times of the week I talk to most of those people.

Q. And about luncheon meetings, going to restaurants, do you partake and overhear discussions by people?
A. On a few occasions I have.

Q. About how many people would that be on an average? A. During this period in question here, this eight or nine weeks, I'd say probably fifty or sixty people outside of business.

Q. Fifty or sixty people a week? A. No, I would say over a period of nine or ten weeks.

Q. You say you talk to about sixty people a day in your office? A. Yes, at different times.

Q. And you also talk to a few people in your position as prosecutor? A. I think on that one occasion a week, mostly out-of-town people, though.

Q. Have you had any occasion to talk to people in your activity politically? A. We have had one meeting and we did not discuss this case at all at that time. I may have at that. I did discuss this case with one of the victom's mother.

Q. Do you find in your discussion - you eat in New Britain, do you not? A. I eat in New Britain? I eat in New Britain once or twice a week. I go home to the neighboring town of Berlin most generally.

Q. Do you know from your discussions and overhearing discussions with people whether or not there is a fixed opinion of prejudice or hostility against these two men?
A. Well, I would say that they are in favor of a fair trial.

MR. BILL: "Yes" or "no".

A. I would say yes.

THE COURT: Your answer is that they are in favor of a fair trial?

THE WITNESS: May I ask to have the question read back, please?

THE COURT: Read the question.

(Question repeated by Reporter)

"Do you know from your discussions and overhearing discussions with people whether or not there is a fixed opinion of prejudice or hostility against these two men?"

A. I would say no.

Q. Do you know whether or not there is a fixed opinion from your overhearing discussions and partaking in them, as to whether or not there is a feeling of hostility and prejudice against these two men? A. I would say yes.

MR. BURKE: I think that's all.

CROSS-EXAMINATION BY MR. BILL:

Q. Do you believe that from your knowledge of the community of Kensington and New Britain that a fair and impartial jury could be summoned to this Court?

MR. BURKE: Objection, Your Honor. I don't know how he would know whether or not there could be summoned here an impartial jury unless he took some kind of a survey among the people who are going to be on the panel or possibly might be on the panel.

THE COURT: All his testimony has been based just on general conversation and overhearing conversations and opinions generally.

MR. BURKE: That's true, but it has been on general subjects such as prejudice and hostility, and not on whether or not a fair jury could be impaneled.

THE COURT: Will you change the form of the question?

Q. In your opinion, Mr. Garrity, could these two men obtain a fair and impartial trial in this County?

MR. BURKE: That's objected to. It isn't his opinion we are asking, and he has objected many times to individual opinions.

THE COURT: You mean based upon what he has overheard?

MR. BILL: I'll rephrase the question, Your Honor.

In view of your discussions throughout the Town of Kensington and New Britain, Mr. Garrity, is there any general opinion in those towns concerning whether these men could get a fair trial in this County? A. I would draw from what I have heard that they would get a fair trial in this County, in this Court.

MR. BILL: Thank you, sir.

LLOYD JOHN JACQUES, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Lloyd John Jacques.

Q. Where do you live? A. Hartford.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. What is your business? A. Up until three weeks ago I operated two service stations in the Hartford area.

Q. How long had you been operating them?

A. One I had been operating over a year and one since last June which I sold three weeks ago.

Q. In the conduct of your business did you, since December 15th up until the present time, come in contact with the general public? A. Yes, I did.

Q. And to what extent? A. Well, in the work I spend ten or twelve hours a day taking care of both stations. I don't know, probably an average of thirty or forty people a day.

Q. How about fraternal organizations or luncheons?
A. Very few.

Q. These people that you have come in contact with, have they represented a cross section of the public?
A. Yes, I would say so.

Q. And have you heard discussions or participated in them from which you could say whether or not you have received or formed an opinion, a fixed opinion upon the part of those people? A. It would seem that way, yes.

Q. And what have you learned to be the fixed opinion from this group as to the guilt or innocence of the accused?

MR. WRIGHT: Objection.

BY THE COURT:

Q. How many people did you hear it discussed?
A. I couldn't tie that down to figures.

Q. Well, I'd like to have you give me your best estimate. You see thirty or forty people a day in your business?
A. That's right.

Q. How many of those thirty or forty have you heard discussing it? A. Probobly a dozen.

Q. You heard about a dozen people who have discussed that subject with you? A. Yes. You s[illegible] I - at that time I had approximately sixteen people in my employ and until the killers were apprehended I did have a problem getting the men to work nights.

Q. There was, of course, a fear? A. Yes.

Q. But this discussion among the public was limited to what, a dozen people, you said? A. Well, it would come to more than that over the period of time. It would probably come into forty people.

Q. During that whole period? A. Yes.

Q. Of how long a time? A. Oh, probably a couple or three weeks. You see, you come in contact with the general public, and then the people in my employ and the salesmen and so on and so forth.

THE COURT: Let him answer.

MR. WRIGHT: May I ask one more question, Your Honor?

MR. McDONOUGH: I'm not through.

MR. WRIGHT: No, on the question of this man's ability to answer this question.

BY MR. WRIGHT:

Q. You are testifying, Mr. Jacques, as of several weeks ago and not as of today, is that correct? A. Well, the reason I mentioned - I had two stations up until three weeks ago. I now operate one. That's the reason I mentioned that.

Q. And this opinion you are going to give us, what you received in the general discussions, is an opinion dating back three weeks? A. Yes, I would say so.

Q. Not today's opinion? A. No.

MR. WRIGHT: I claim that that is not a qualified opinion, Your Honor.

MR. McDONOUGH: I claim at any time during the time of the murder with which these people are charged up to the time of the present or two weeks ago -

THE COURT: Let him answer.

BY MR. McDONOUGH:

Q. Will you answer it? What is the opinion that you find existed as to the guilt or innocence of the accused?
A. That the accused are guilty.

Q. Did you find any hostility shown towards the accused? A. It would seem that way.

Q. Did you find whether or not there was a determination or an opinion as to the type of trial they should receive? A. No, I'm afraid we didn't go into that.

Q. Did you find an opinion as to whether or not they could obtain a fair trial? A. No.

MR. McDONOUGH: No questions.

MR. BURKE: No questions.

CROSS-EXAMINATION BY MR. WRIGHT:

Q. And you have been out of touch with these people in the last few weeks, is that correct? A. No. Some of the people are customers. Other are people that are still working for me.

Q. No discussion about a fair trial that you had with any one of them? A. No.

MR. WRIGHT: Thank you.

BY MR. McDONOUGH:

Q. What was it you said to the Court in answer to the Court's question about you were having trouble getting men to work nights? A. I had this station located in town in sort of a back area, over at Chapel and High Street and the men asked me for small arms for protection. I told them that rather than get small arms I would close the place, so we did close early for a short period.

Q. Have you found a general expression of fright or terror in this City?

MR. WRIGHT: It's a leading question. I object.

MR. McDONOUGH: It is leading. I'll withdraw it.

Q. What have you found the state of mind before the apprehension of the accused, the state of mind of these people that you testified to, the general state of mind before the apprehension but while the killings were going on with which they are now charged? A. The people in my employ were frightened. I was, also.

MR. McDONOUGH: That's all.

MR. WRIGHT: That's in the gasoline station business, you mean? A. That's right.

MR. WRIGHT: Nothing further.

HENRY J. ROGESKI, having been sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Henry J. Rogeski.

Q. Where do you live? A. Hartford, Connecticut.

DIRECT EXAMINATION BY MR. McDONOUGH:

Q. What is your business or occupation? A. Deputy Sealer of Weights and Measures for Hartford County.

Q. Mr. Rogeski, have you - question withdrawn. In the course of your duties do you come in contact with a portion of the public of Hartford County? A. Mostly individuals in the grocery business, owners and managers of stores.

Q. In what towns? A. Towns north of Hartford. Probably seven or eight towns.

Q. And between December 15th and the time of the apprehension of the men charged with the crimes, these men

in this case, did you from your conversations with people that you came in contact with, receive an opinion as to the state of mind as to the public? A. Prior to the apprehension?

Q. Yes, in regard to the killings. Just "Yes" or "No". Did you? A. Yes.

Q. How many people - what was the average, say, weekly or daily that you came into contact with?

A. I would say ninety per cent.

Q. Ninety per cent of those people? A. Yes.

THE COURT: Ninety per cent of what?

A. Of the people I come in contact with.

THE COURT: What he wants to know is how many?

A. Oh, I would say perhaps a dozen or so a day.

Q. And that would be every day during the course of your week? A. Before the apprehension, during this crime wave.

Q. About a dozen or so a day? Would you say fifty a week? A. I would safely say so.

Q. What was that opinion that you found?

MR. WRIGHT: Objection.

MR. McDONOUGH: Claim it.

THE COURT: The opinion before apprehension?

MR. McDONOUGH: Yes, and while the killings were going on. The purpose, Your Honor, is to show a state of terror in the County.

THE COURT: I don't think that is material, but if you think it is I'll let him answer.

MR. McDONOUGH: Yes, Your Honor.

A. I found in the area north of Hartford in these little towns like South Windsor and East Windsor and Windsorville and being new on the job I would walk in and the proprietor or the manager would look a little startled, a little frightened in appearance, because they didn't know who I was. I could relate two instances that stand out in my mind.

MR. WRIGHT: Well, I object.

MR. McDONOUGH: I don't think we want that.

Q. But answer if you can bring it right down without specific instances. What was the ninety per cent that you found, the state of mind, of terror that they were in? "Yes" or "No". A. Yes.

Q. Now, since the apprehension of these accused and their indictment for first degree murder, this same group of people, have you received from them so that you have an opinion as to their state of mind as to the guilt or innocence of the accused? Answer "Yes" or "No". Did you find an opinion existed? A. A very limited one.

Q. By limited, what do you mean? A. Oh, I'd say probably a third of the calls that I make, a third of the fifty or so I visited during the week.

Q. They expressed an opinion, did they, as to the guilt or innocence? A. Yes.

Q. What was that opinion?

MR. WRIGHT: Objection.

THE COURT: I think that is too limited to get a cross-section of opinion.

Q. About how large a portion of that group expressed an opinion, if they did, as to a trial to be given to these accused? A. I don't recall any.

Q. There was no opinion on that, that you recall? A. No.

MR. McDONOUGH: My I have an exception to Your Honor's exclusion of the question, the last one?

THE COURT: I'll withdraw my ruling. You may ask the question.

MR. McDONOUGH: Thank you. May the question before this one be read, Your Honor?

Q. (Repeated by the Reporter) "They expressed an opinion, did they, as to the guilt or innocence?" A. "Yes." "What was that opinion?"

Q. What was that opinion? A. It was the average rational opinion that something should be done and they should be given a speedy trial, and things to that effect.

Q. Did they express an opinion as to the guilt or innocence? A. Truthfully I cannot say.

MR. McDONOUGH: That's all.

MR. BURKE: No questions.

MR. WRIGHT: No questions.

JAMES F. HUGHES, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. James F. Hughes.

Q. Where do you live? A. Wethersfield, Connecticut.

DIRECT EXAMINATION BY MR. BURKE:

Q. Mr. Hughes, could you tell me what business you are in? A. Gasoline and garage business.

Q. Where is your station located? A. Silas Deane Highway and Jordan Lane.

Q. In the course of your business do you have occasion to talk to the general public each day? A. Yes.

Q. About how many people do you talk to or hear discussions? A. I can't answer.

Q. What is your best estimate? A. We sell six hundred and fifty thousand gallons of gas a year.

Q. Would it be more than ten or twenty a day? A. It could be twenty.

Q. Do you belong to any fraternal groups in Wethersfield? A. No.

Q. Do you belong to any civic groups down there? A. The Wethersfield Businessmen.

Q. Have you had meetings recently that you attended? A. No, I never attended a meeting.

Q. How about luncheons? Do you have occasion to meet people at luncheons or overhear discussions at restaurants of people in that area? A. Well, there's a Diner down the road. You hear a jam session down there.

Q. About how many people would you meet through that medium? A. I don't bother with too many in there.

Q. Do you attend any public functions in Wethersfield? A. Democratic Town Committee Meetings or something like that.

Q. Have they had any meetings recently? A. Yes, but I haven't attended them.

Q. Would you be in a position to know whether or not there was a fixed opinion in Wethersfield regarding the guilt or innocence of these two men in this case? A. You mean amongst the customers?

Q. Yes. A. Where we are located we probably have twenty customers that are prison guards. In fact, I think we

have the best people in Wethersfield for customers, and amongst the guards they felt that he never should have been released.

THE COURT: They wouldn't be likely to be jurors, would they?

A. Oh, no.

Q. What about the other people, the better customers from Wethersfield, as you expressed it? A. Well, they -

THE COURT: I haven't gotten any idea from him that he discussed it with very many customers. If a person drives up to get gas from you do you stop to discuss this question with him?

A. Well, Judge, I believe the first holdup was at the Rocky Hill-Wethersfield Town line, a package store, of this whole deal. That night I met the Chief of Police at the Wethersfield Country Club -

THE COURT: We are trying to get from you an answer as to what the feeling is in Wethersfield. Are you in a position to give any idea of the general feeling there from your observation or discussions or overhearing discussions?

A. In regard to them having a trial?

THE COURT: In regards to the two men. Are you in a position to give an opinion?

A. Yes, I think so.

Q. What is the opinion?

MR. WRIGHT: Objection.

THE COURT: Let him give it. It is obviously quite limited. Go ahead.

A. I have never met anyone who has referred to a trial in Hartford County as a kangaroo trial.

THE COURT: As a what?

A. Kangaroo trial.

THE COURT: Kangaroo Trial?

A. They are all on the up and up.

THE COURT: You've got me. What is a kangaroo trial?

A. Well, it's one that isn't quite -

Q. That's language you hear from the prison guards, isn't it? A As a prison guard I heard that.

THE COURT: Do you mean by that that there isn't anybody that said they shouldn't have a fair trial?

A. No. In my three years as a prison guard I have never heard anyone refer that they had a kangaroo trial, meaning one that isn't on the up and up.

THE COURT: You mean they have confidence in the Court?

A. That's right, and I have confidence in the jury system.

BY MR. BURKE:

Q. I want to know what the general opinion is, as you heard it discussed by your customers? A. That it should be a short trial.

Q. Was there any feeling of prejudice or hostility against these two men expressed by your customers?
A. Against these two men?

Q. Yes, these two, after their apprehension?
A. No.

Q. They weren't hostile towards them at all.
A. No.

MR. BURKE: I think that's all.

MR. McDONOUGH: By a short trial was it understood to mean a quick trial and get it over with?

MR. WRIGHT: Objection.

MR. McDONOUGH: Was that the opinion?

THE COURT: That certainly is a suggestion as to how the answer should be, isn't it?

MR. McDONOUGH: I'm sorry.

THE COURT: Isn't that a suggestion as to what you want him to say?

MR. McDONOUGH: Well, yes.

BY MR. McDONOUGH:

Q. Wasn't the opinion that you obtained that they, in a short trial, get all their legal rights and everything available to them that could be made, say by lawyers?

A. That's right.

THE COURT: Is that all?

MR. McDONOUGH: That's all.

MR. WRIGHT: In other words, the general opinion in Wethersfield is that these men could get a perfectly fair trial here in Hartford County?

A. That's right.

MR. WRIGHT: That's all.

BY MR. McDONOUGH:

Q. Do you know what is meant by that expression, a short trial? A. That there was nothing to the case.

Q. That there was nothing to the case? A. Yes.

Q. The general opinion was, do you mean, that they are guilty? A. I wouldn't say that, but to go through the case there wasn't too much to it.

Q. Do you mean they should get a shoi trial or it would be a short trial? A. It would be a shor. trial.

Q. Would be, not should be? A. Yes.

MR. WRIGHT: Do I understand by that, that they had in mind a speedy trial?

MR. BURKE: I'll object to that as characterizing the testimony of the witness.

MR. WRIGHT: This is cross-examination.

THE COURT: Go ohead. Answer the question.

THE WITNESS: I didn't get the question.

THE COURT: Read the question.

(Last question read by Reporter)

A. I'd say that. I mean, boom, boom and get it over with.

MR. BURKE: Is it the opinion down there, what they mean is give them a quick trial before they hang them?

MR. WRIGHT: I object.

THE COURT: Well, let's not go into that.

MR. BURKE: That's all.

BY MR. McDONOUGH:

Q. What do you mean by "boom, boom and get it over with"? A Well, there's things that I could say that have nothing to do with this.

Q. Now, I'd like to know?

MR WRIGHT: I object.

MR. McDONOUGH: This is important.

MR. WRIGHT: This is personal opinion and not the opinion of the public.

MR. McDONOUGH: "Boom, boom and get it over with. There's things I can say," -

MR. WRIGHT: Object, unless it is public opinion.

THE COURT: The question is objected to. It is excluded.

MR. McDONOUGH: May I be heard, the reasons why, Your Honor?

THE COURT: Ask him another question?

Q. From what you have heard in discussions, not your opinion, Mr. Hughes -

THE COURT: Bear in mind, of course, he is your witness.

MR. McDONOUGH: Yes, Your Honor.

Q. Is it the opinion that they can get a fair trial but it should be as short as possible? A. Yes.

MR. McDONOUGH: That's all.

MR. WRIGHT: No questions.

SAMUEL B. LAWRENCE, having been duly sworn by Mr. Ferguson, testified as follows:

BY THE ASSISTANT CLERK:

Q. What is your name, please? A. Samuel B. Lawrence.

Q. Where do you live? A. East Winds r..

DIRECT EXAMINATION BY MR. BURKE:

Q. Mr. Lawrence, what is your business or occupation? A. I am a tobacco grower.

Q. Do you hold any official position in the Town of East Windsor? A. I do.

Q. What is it, please? A. Member of the Zoning Board of Appeals.

Q. Do you belong to any civic or fraternal or political groups in East Windsor? A. I do.

Q. What are they? A. Member of the Lion's Club, American Legion, Masons. As far as - what was the second part of your question?

Q. Political groups? A. Member of the Democratic Town Committee.

Q. Mr. Lawrence, in the course of your business and also in your activities in civic and fraternal and political groups do you have occasion to meet the public of East Windsor? A. I do.

Q. About how many people, average a week, would you meet? A. Perhaps thirty.

Q. And do you have an opportunity to overhear discussions by people in the Town of East Windsor? A. I do.

Q. About how many people are there in the Town of East Windsor? A. Approximately six thousand.

Q. Now, do you know or can you tell us whether or not there exists in East Windsor a fixed opinion as to the guilt or innocence of Taborsky and Culombe? A. I could not say that.

Q. Do you know whether or not there exists in East Windsor, from overhearing discussions or partaking in

them, whether or not there is a fixed opinion as to prejudice or hostility against these men? A. I do not think there is any prejudice.

Q. You don't think so? A. No.

MR. BURKE: I think that's all.

MR. McDONOUGH: No questions.

MR. WRIGHT: No questions.

CHARGE OF HON. JAMES C. SHANNON, JUDGE TO THE JURY

THE COURT: Ladies and gentlemen, your request for pencil and paper was denied by me because you are not permitted to make notes of the charge, except mental notes, which I trust you will make. Can you all hear me?

In the performance of our duties you, as the jury, and I, as the Court, have separate functions. It is my duty to state the rules of the law involved in the decision in this case, while it is your duty to find the facts. In so far as I do state to you the law, what I say to you is binding upon you, and you will understand that if I differ from the claims made by counsel in respect to the law you will dismiss from your minds what they have said to you.

The performance of my duty requires me to state the rules of law lying at the foundation of the various contentions of the parties. These are the rules which, when applied to the facts you find, will lead to your ultimate verdict. I may also point out to you the legal effect of certain facts or certain evidence, or I may suggest to you certain considerations which you should bear in mind in considering the evidence. Where I assume to do either of these things you will carefully heed what I say. It is my right, also to make comments to you as to the weight of the evidence or as to the propriety or lack of propriety of your finding certain facts from the evidence. Where I undertake to make such comments they are merely suggestive to you for you to approve or disapprove in the exercise of your own sound judgment.

My first concern with the facts in this case is to refer to them in order to make clear to you the application of the rules of law to this particular case. If, therefore, I refer to certain evidence or certain facts and not to others, you

are not to infer that I mean thereby particularly to emphasize these certain facts, or to limit your consideration to them. If I should overlook any evidence under consideration in a particular phase of the case, you will supply that from your own recollection. If I incorrectly state any evidence, you will correct my error. For, after all, it is your function and your duty to weigh the evidence offered, make the proper deductions or inferences from that evidence, and thus determine the facts. And what counsel say to you or have said, or what I say to you as to the facts, except as I have already pointed out, should have weight with you only so far as you approve it in your own minds.

It is the duty of the Court to state to you the law in pursuance of which the guilt or innocence of the accused must be determined by you, and it is the exclusive province of the jury to deal with the evidence, determine the facts, and reach the final conclusion upon them as to the guilt or innocence of these accused. In dealing with these facts and reaching this conclusion the jury must exercise this privilege and perform this duty with strict regard to and respect for the law applicable to the case as it is declared to you by the Court.

The Court alone is responsible for the statement of the law. The jury is responsible for the determination of the facts, and the application of the law as stated by the Court, to these facts found by the jury, determines the verdict to be rendered by you.

The burden of proving the guilt of the accused is upon the State of Connecticut. It is not enough for the State to make out a case of probable guilt and call upon the accused to disprove it. This means that the accused is not required to prove his or their innocence. The State must affirmatively prove his or their guilt, and it must prove it beyond a reasonable doubt. Such a doubt is one that is based upon reason

and grows out of the evidence and is reasonable in the light of the evidence and is honestly entertained by the juror after a fair comparison and careful examination of the entire evidence in the case. A reasonable doubt is not a doubt raised by one who questions for the sake of raising a doubt. It is not a surmise, guess, conjecture or mere fanciful or imaginary doubt. It is not a captious doubt nor a doubt offered by the ingenuity of counselor or of jurors and unwarranted by the evidence, nor is it a doubt founded upon sympathy for the accused or those connected with him or them.

The law does not require absolute certainty to authorize a conviction, for that is practically unattainable. The law does require that the guilt be established as charged beyond a reasonable doubt, and that is one that is founded upon the evidence, one which you, as reasonably prudent men and women would be willing to act upon in the more weighty and important matters relating to your own affairs.

In order to establish the guilt of the accused beyond a reasonable doubt the proof ought to exclude every reasonable presumption or hypothesis of innocence in the mind of each juror, and proof beyond a reasonable doubt is such proof as excludes every reasonable hypothesis of innocence. The duty of the State to satisfy you by this degree of proof - that is proof beyond a reasonable doubt - extends to all the essential elements of the crimes for which conviction is sought or had, and you should not find the accused guilty unless all the essential elements have been established beyond a reasonable doubt.

It is the duty of the State's Attorney to offer every available witness whose testimony would aid the Court in arriving at the truth of the matter before you. In determining whether evidence established guilt beyond a reasonable doubt, any conclusion reasonably to be drawn from the evidence which is consistent with the innocence of the ac-

cused, must prevail. It is the law of this state that a man shall not be convicted upon mere suspicion. The State must prove guilt beyond a reasonable doubt - that is, by such proof as precludes every reasonable hypothesis except that which it tends to support. It is proof wholly consistent with the defendant's guilt and inconsistent with any other rational conclusion.

This requirement of the law, that in order to convict an accused the State must satisfy you beyond a reasonable doubt of his or their guilt, does not mean that proof must be beyond a possible doubt, and a possible supposition of innocence is a far different thing from a reasonable hypothesis.

In this case, as in all such cases, the accused are presumed to be innocent until he or they are proven guilty. That means that at the moment when the accused were presented for trial here before you, nothing which you knew about his or their past or might surmise or guess about his or their past should be considered by you at all. Their slates were wiped clean at that moment. They stood before you free from guilt, bias, prejudice or burden arising from his or their position as accused. In so far as you are concerned, they were then innocent and they continue to be innocent until such time as the evidence and matters produced here in the orderly conduct of this case satisfy you that he or they are guilty. Up to the moment when you are so satisfied from what has taken place here in court before you that he or they are guilty, so far as you are concerned he or they are innocent of the crimes with which they are charged. This presumption requires that if a piece of evidence offered is capable of two reasonable constructions, one of which is consistent with innocence, it must be given that construction. If you entertain a reasonable doubt between a greater and a lesser crime, the accused should have the benefit of that doubt and your verdict should be for the lesser crime.

The fact that the accused have been presented here for trial under indictments by the grand jury is without bearing or significance in your deliberations or your consideration of the question of his or their guilt or innocence of any crime within the reach of the State's charge. The work of the grand jury in these matters is merely to carry out the necessary stages of preliminary investigation under the law. The actions of the grand jury are without consequence here for any purpose of the evidence except as expressly defining the crimes charged and the precise manner of their accomplishment, and in so limiting the scope of your inquiry. It is, of course, to be accorded no weight or significance by you on the vital question of the guilt or innocence of the accused.

The credibility of witnesses and the weight to be given to their testimony are matters which it is peculiarly your function to determine. However, I may properly make certain suggestions to you. No fact is, of course, to be determined merely by the number of witnesses testifying for or against a given proposition. It is quality, not quantity, of testimony which controls. In weighing the testimony of a witness you should consider his or her appearance on the stand, you should try to size him or her up, you should have in mind all those little circumstances which point to truthfulness or untruthfulness. You should consider any possible bias or prejudice he or she may have, either for or against the State or the accused, his or her interest, or lack of interest, of whatever sort, in the outcome of the trial, his or her ability to observe the facts correctly and to remember and relate them truthfully and accurately. You should test the evidence a witness gives you by your own knowledge of human nature and of the motives which influence and control human action. If any facts are admitted or otherwise proved to you you may well bring them into relation with the testimony and see if they fit together with it. In short, you are to bring to bear upon it the same con-

siderations and use the same sound judgment you apply to the questions of truth and veracity which are daily presenting themselves to you for your decision in every day life.

You will recall that the State has offered in both cases, in evidence, testimony as to statements made out of court by the accused, which it claims were in the nature of a confession or admission by him or them tending to show his or their guilt of the crime charged, and that you were excused while I considered the question of its admissibility. That I did hold the testimony to be admissible, you know. Let me now caution you that this ruling on my part meant no more than that in the performance of my duty I concluded that the circumstances surrounding the making of these statements were such that you should have them before you for your consideration, that my ruling is not to be taken by you as giving to those statements any more weight in your deliberations than you conclude that they should have.

I shall also say this to you: Such statements by an accused person or persons are not in themselves sufficient to prove the fact that the crimes charged against the accused were in fact committed by someone, the accused or others. Your first inquiry must be, was such a crime committed? Before you can determine that to be so, you must conclude that there was offered before you material and substantial evidence, apart from the statements of the accused, that the crimes charged were committed. Not that this evidence must in itself establish that fact beyond a reasonable doubt, but it must substantially corroborate the admissions of the accused. Having concluded that there is such evidence, you will then determine whether from it and from the admissions of the accused, taken together, you are satisfied beyond a reasonable doubt that the crimes charged were in fact committed by them.

The confessions of the accused which have been admitted as evidence are to be considered by you in connection

with all the other evidence in the case. Made as it was out of court, it is not like the sworn testimony offered before you. It is to be considered by you as a declaration inconsistent with the accuseds' plea of not guilty. It may be, however, if you consider that it or any one of them were made by the accused, evidence, circumstantial in its nature, of the truth of the statements made in it. It is for you to determine what weight is to be given to it, and in that connection you should consider the circumstances under which it was made as they appear in the evidence before you.

If you find that the confession of the accused, Joseph Taborsky, was obtained by psychological pressure, coercion by means, or by the use of duress, or by any other means which destroyed or impaired his decision to make such confession out of reasoned choice, you shall reject his confession.

You are to consider whether or not in your opinion these statements were made voluntarily and were not obtained by violence or because of fear or duress so that they are likely to be false, and if you so consider that they were made voluntarily you may consider what weight should be given to them in accordance with the instructions which I have already given you.

An accused person is not obliged to take the witness stand in his own behalf. On the other hand, he has a perfect right to do so, as the defendant, Arthur Culombe, has done. In weighing the testimony he has given you should apply the same principles by which the testimony of other witnesses are tested, and that necessarily involves a consideration of interest in the case. You will consider the importance to him of the outcome of the trial and his motive on that account for not telling the truth. An accused person, having taken the witness stand, stands before you just like any other witness and is entitled to the same consideration

and must have his testimony measured in the same way as any other witness, including, however, his interest in the verdict that you are to render.

As I just said, an accused person is under no obligation to become a witness in his own behalf. It is for the State to prove him guilty, and no burden rests upon him to prove his innocence. Until, therefore, you have reached the conclusion that the evidence offered by the State has given rise to such a strong probability of his guilt that a denial or explanation upon his part is reasonably called for, you are not to consider his failure to testify as any evidence of his guilt. If, however, upon the evidence offered by the State there is such a probability, his failure to testify becomes a fact which you are entitled to consider. To that fact you should give such weight as you deem the circumstances justify. You may consider that he has sat throughout the trial and has listened to the evidence tending to incriminate him; you may consider the nature of that evidence which has been offered, and any circumstances appearing in the course of the proceedings which you deem might justify his conduct. Whether you shall draw from his failure to testify an inference pointing to his guilt and what weight you should give such an inference is for you to decide.

The case of the State rests in part upon what is commonly known as circumstantial evidence. It is your duty to consider the evidence and all the evidence in the case, whether direct or circumstantial. It will not do to take your individual view upon the consideration to be accorded circumstantial evidence, no matter what you may think the range of your knowledge or the depth of your wisdom. Centuries of experience ripened into law have determined for you the rules which guide and govern the consideration which you should accord to all the evidence in the case, whether it be what is popularly known as direct evidence or circumstantial evidence.

Direct evidence is the testimony given by a witness who says that he saw and heard, or that there came within the field of his own senses certain facts which he relates to you. This is the kind of evidence with which you are most familiar. Circumstantial evidence of an event is the testimony of witnesses to the existence of certain facts or the happening of certain events from which the jury may logically conclude that the event in question should happen. Because of the fact that crimes are often commited in secret it often happens that there are no eye witnesses to the crime itself and therefore there is no direct evidence that the crime has been committed by the accused. For that reason it often appears that the commission of a crime by a certain accused can be proved, if it is going to be proven at all, only by circumstantial evidence. The only practical difference between direct and circumstantial evidence is that when you have direct evidence of the commission of a crime the only thing the jury has to do is pass upon the credibility of that direct testimony, whereas with circumstantial evidence the jury has first to determine the credibility of the witness and then decide what, of the facts testified, did in fact exist, and then they have to decide whether the happening of these events or the existence of these facts forces them logically to the conclusion that other facts existed and other facts occurred and ultimately that the crime was committed by the accused.

You should approach the consideration of these cases without any prejudice for or against circumstantial evidence. Treat all the evidence fairly. Proof by circumstantial evidence may be as conclusive as would be the testimony of witnesses speaking on the basis of their own observation. Of course, in passing upon the guilt of accused persons on the basis of circumstantial evidence you must be satisfied beyond a reasonable doubt, first, that certain facts or circumstances did exist, and secondly, that the existence of those facts or circumstances do, beyond a reasonable doubt,

lead you to the conclusion that the crimes were committed by the accused. Unless the existence of those facts or circumstances compel you, as reasonable men and women, to only the one conclusion, namely, that the accused are guilty, then, of course, you would not be justified in finding them guilty. If the existence of all the facts or circumstances which you believe existed can be explained reasonably on some basis other than that the accused committed the crimes charged, then the State has not made out a case. But if, in any case, you find certain facts to have been proved, and if the only reasonable inference to be drawn from the existence of those facts is that the accused committed the crimes charged, then it is your duty to draw that inference and find them guilty. And, of course, where there are in evidence several separate facts or circumstances, each tending to prove the guilt of the accused, the question for you to decide is not as to whether each fact or circumstance taken separately from the rest convinces you beyond a reasonable doubt of the guilt of the accused, but rather whether all of the facts and all the circumstances taken together are sufficient to satisfy you beyond a reasonable doubt that the accused are guilty.

The accused are on trial here under an indictment charging them with the crime of murder in the first degree. The indictments referred to read as follows - and I will read to you the indictment in the case of *State vs. Arthur Culombe*, first, which is No. 21,666:

"FIRST COUNT: The grand jurors - " I should read the top, I suppose.

"To The Honorable Superior Court, Holden at Hartford, Within and for the County of Hartford, State of Connecticut, on the First Tuesday of March, A.D. 1957, and Now in Session:

"FIRST COUNT:

"The Grand Jurors within and for said County accuse Arthur Culombe, alias Arthur Colombe, of Hartford, Connecticut, of the crime of MURDER IN THE FIRST DEGREE and charge that at the City of New Britain, in said County of Hartford, on the 15th day of December, 1956, the said Arthur Culombe, alias Arthur Colombe, murdered one Edward J. Kurpiewski, and that said murder was committed in perpetrating a robbery.

"SECOND COUNT:

"And the said Grand Jurors further accuse the said Arthur Culombe, alias Arthur Culombe, of Hartford, Connecticut, of the crime of MURDER IN THE FIRST DEGREE and charge that at the City of New Britain, in said County of Hartford, on the 15th day of December, 1956, the said Arthur Culombe, alias Arthur Culombe, murdered one Daniel J. Janowski, and that said murder was committed in perpetrating a robbery."

And now I will read you the indictment in the case of *State vs. Joseph L. Taborsky*, which is No. 21,665:

"To The Honorable Superior Court, Holden at Hartford, Within and for the County of Hartford, State of Connecticut, on the First Tuesday of March, A.D. 1957, and Now in Session:

"FIRST COUNT:

"The Grand Jurors within and for said County accuse Joseph L. Taborsky, of Brooklyn, New York, of the crime of MURDER IN THE FIRST DEGREE and charge that at the City of New Britain, in said County of Hartford, on the 15th day of December, 1956, the said Joseph L Taborsky

murdered one Daniel J. Janowski and that said murder was committed in perpetrating a robbery.

"SECOND COUNT:

"And the said Grand Jurors further accuse the said Joseph L. Taborsky, of Brooklyn, New York, of the crime of MURDER IN THE FIRST DEGREE and charge that at the City of New Britain, in said County of Hartford, on the 15th day of December, 1956, the said Joseph L. Taborsky murdered one Edward J. Kurpiewski, and that said murder was committed in perpetrating a robbery."

As you retire to your deliberations upon these cases you will have these indictments with you in the jury room.

Before considering in detail the issues presently involved, certain elements of the law must first be considered. Homicide is the killing of one human being by another. The law regards homicide, under certain circumstances, as justifiable or excusable and therefore not criminal, as where one kills another in the execution of the laws, or in the prevention of a felony, or in necessary self defense. If one kill another by accident in the performance of a lawful act, without motive or intent to cause injury the killing is recognized as excusable and not criminal.

Criminal homicide, on the other hand, is of two kinds or classes, murder and manslaughter. Murder is the unlawful killing of a human being, with malice aforethought, either express or implied. Manslaughter, on the other hand, is the unlawful killing of a human being without malice, either express or implied. These two classes of criminal homicide embrace all cases of unlawful killing of one person by another. Each of these crimes contains the same elements of unlawful killing. They differ in the fact that in murder, malice is present, while in manslaughter there is an absence of malice.

The first element, namely, the killing of one human being by another, lies at the basis of all murder. You must find that to have occurred as a fact. In other words, you must find that these accused killed the persons named in these indictments in order to convict them of the crime of murder. That is the first thing that must be shown. Of course, this is also true in order to convict them of the crime of manslaughter. If there was a killing or killings you must next consider and decide whether or not it was unlawful. The law, as already indicated, does not regard all homicide as criminal. A homicide is criminal or unlawful when the act or conduct proceeds from an unlawful intent, and such intent exists in every case where the homicide is committed without legal excuse or justification, or whether it is the involuntary result of some unlawful act or conduct. The element of unlawful killing is a part of the crime of manslaughter as well as a part of the crime of murder.

You come then to the next or third element of the crime of murder, namely, malice. In popular speech, of course, malice means hatred, ill will, animosity or malevolence existing in the mind of one person toward another. In the law of criminal homicide, however, malice not only embraces such a state of mind but is much broader and includes an evil design in general, a wicked and corrupt motive, and an intent to do evil which proves fatal. Malice includes all those states of mind in which a homicide is committed without legal justification, extenuation or excuse. It is an evil design in general where the circumstances manifest a wicked, depraved, wanton and maligant spirit. In the case of unlawful homicide, if no specific intent to kill exists and no specific feeling of hatred or ill will exists, still, if the facts and circumstances attending the killing are the ordinary symptoms of a wicked and depraved spirit the malice may be presumed.

The law presumes malice from the unlawful use of a deadly weapon. In the case of an unlawful homicide by a deadly weapon used in perpetrating a robbery, the law implies malice. Malice, then, may be either express or implied. There is express malice where there is a specific and deliberate intent and purpose to unlawfully kill, arising out of ill will, hatered or animosity, expressed by the slayer for his or their victim. On the other hand, there may be, as we have said, no actual malice in the sense of personal hatred, ill will or animosity toward the victim, and no specific intent formed by the slayers to kill them, and yet the circumstances of the killings may be such that the law will infer or imply malice therefrom.

I have explained to you under what circumstances and conditions this inference is or may be drawn. Such an inference, when drawn, constitutes implied malice. If malice, either express or implied, is present, then the crime is murder in some degree. Malice may be presumed from the circumstances of atrocity, barbarism or cruelty attending the killing, or from the unlawful use of a deadly weapon. In general, it may be said that where an unlawful homicide is shown to be committed by an accused person and no circumstances of mitigation, extenuation or excuse appear, malice of the slayer will be presumed.

A few illustrations may be of help to you at this point. Take the case of a man who hates another man and, desiring revenge, seeks him out and intentionally and unlawfully kills him. Here, of course, the assailant is said to have killed his victim with malice and hatred, and the intention to unlawfully kill constitutes malice. In such a case the legal and popular meanings of the word "malice" substantially coincide.

Suppose, however, there is no hatred or ill will. The same man, without lawful excuse, intentionally fires a loaded rifle into a crowd, aiming at no one in particular and

having no one in mind who he desires to hurt, hating no one in this crowd. Nevertheless, he kills someone in the crowd. Here again, he is said to have slain his victim with malice. The recklessness of his act under these circumstances constitutes malice without any specific intent to harm.

Take still another case. "A" intending to kill "B", whom he hates, by mistake kills "C", who is his best friend. Here he did not intend to kill his best friend. He did not hate him. He loved him. Yet the law says that he killed his friend with malice because it was as a result of his evil design to kill "B" that he actually killed his friend "C". This element of malice about which I have been speaking distinguishes the crime of murder from the lesser crime of homicide called manslaughter.

Manslaughter is an unlawful homicide without malice. Manslaughter may be either voluntary or involuntary. Involuntary manslaughter is an unlawful homicide committed in the heat of sudden passion, caused by provocation. This last example simply means a killing that comes about when a man suffers from a transport of passion whereby, through some cause deemed adequate in the eyes of the law, that is a provocation such as is calculated to give rise to irresistible passion in the mind of a reasonable person, is caught up out of himself and kills before his will and judgment have time to assert themselves. Such a killing the law holds to be without malice.

While it is for you to determine, ladies and gentlemen, whether or not the accused in this case are guilty of this or any other offense included in the indictment - and I am now referring to the crime of manslaughter - and while it is for you to recall the evidence and decide what has been proved, I recall no evidence or claim of any killing which would amount to manslaughter in this case. I mentioned it, however, because manslaughter is within the crimes

encompassed within the field of this indictment or these indictments. You will understand that this is simply my view of the evidence and it is not binding upon you. You will determine the facts and that determination will be controlling.

Now, if you conclude that there have been unlawful killings with no circumstances indicating excuse or justification and no circumstances indicating that they were the result of a transport of passion, then the law is that the killings were with malice. If there exists in the evidence no proof of malice, either expressed or implied, then the crimes must be manslaughter at the most. If, however, there is malice, expressed or implied, then the crime is murder; that is to say, murder in the first or second degree.

It is necessary now to explain to you the distinction between murder in the first degree and murder in the second degree. An unlawful homicide without extenuating circumstances reducing it to manslaughter, would be murder in the second degree unless the murder falls within one of the classes designated by the statutes of our State as murder in the first degree. Here I shall read to you the provisions of our statute concerning the crime of murder:

"All murder perpetrated by means of poison, or by lying in wait, or by any other kind of wilful, deliberate and premeditated killing, or committed in perpetrating, or in attempting to perpetrate, any arson, rape, robbery or burglary, or injury to any person or property by means of any explosive compound, shall be murder in the first degree; and all other kinds or murder shall be murder in the second degree; and the degree of the crime charged shall be alleged in the indictment; but the jury before which any person indicted for murder shall be tried may find him guilty of homicide in less degree than that charged."

Proof of second degree murder, then, requires proof of the elements that I have already indicated, namely, the killing, the unlawfulness of the killing and malice, either expressed or implied. If, in addition to those elements, the State also proves that the murder was committed in the perpetration of a robbery, as alleged in this indictment, it becomes, by force of law, murder in the first degree. The fact that a murder is committed in the commission of a robbery makes it murder in the first degree by statutory definition. A further specific finding that it was done wilfully, deliberately, and with premeditation is not required under the law.

The reason for this provision in our law is that crimes against a person, like robbery, rape, arson, and burglary are, in common experience, likely to involve danger to life in the event of resistance by the victim or the attempt of the perpetrator to make good his escape and to conceal his identity. It is a probable and natural and reasonable consequence of the attempt to commit such a crime that a human life will be destroyed. The commission of robbery is a crime that may cause the death of an innocent person. So again I say, that if the murders in this case, if you find there were murders, were committed in the perpetration of a robbery, then it constitutes murder in the first degree.

It is now necessary to understand the elements of the crime of robbery. Robbery is the felonious taking of money or goods to any value from the person of another or in his presence against his will, by violence or putting in fear. The word "feloniously" means having the quality of a felon, malignant, malicious, villainous. In a legal sense, it means an intent to commit a crime. The taking must be either from the owner's person, as where money is forcibly taken from his pocket or in his actual presence, as where he is, by intimidation or force, compelled to open his safe or cash register. Some violence or intimidation must be used in the

taking of property to constitute the crime of robbery. The value of the property does not affect the crime.

Here, you will recall, it is the claim of the State that the accused were committing a robbery in New Britain at the time, place and date alleged in the indictment, and that during the commission of that robbery, the two deceased named in the indictment were murdered. If you find that the State has proven beyond a reasonable doubt that the two deceased named in these indictments were murdered, and that they were at the time in question committing a robbery, then they are guilty of murder in the first degree.

If you find that they were, in fact, perpetrating a robbery; if you find that all of the elements and essentials of the crime of robbery have been proved; and if you further find that these accused murdered these deceased named in the indictment while they were perpertating this robbery, then it is murder in the first degree.

Perhaps I should summarize for you at this point. Murder in general, is the unlawful killing by a person of sound reason and judgment of another person, then in being and in the pace, with malice. This malice may be either expressed or implied. It may be implied from evil design to commit a robbery or some other circumstance. Manslaughter, on the other hand, is distinguished from murder by the absence of the element of malice. Murder committed in the perpetration of a robbery, under our law, is murder in the first degree.

After specifying certain other classes of first degree murder, the statute then states that all other kinds of murder shall be murder in the second degree. In order to warrant a conviction of murder in the second degree against these accused, the State must establish that the person named in the indictments are dead and that the accused unlaw-

fully killed them, and finally, that in the killing the accused acted with malice. If any one of the propositions has not been established, you cannot convict the accused, even of the crime of second degree murder. The distinguishing element between first degree and second degree murder lies in these cases in the facts specifically alleged in these indictments, namely, that these accused killed while they were perpetrating a robbery. If you find, in fact, they were not perpetrating a robbery, then the cases are cases of second degree murder, providing you find all of the elements named, including that of malice.

Proof of second degree murder does not require proof of a specific intent to kill the deceased. The existence of malice, express or implied, if you find that to be proved, makes the unlawful killing murder in the second degree.

Now, there is another important statutory provision affecting conviction of murder in the first degree. Our statute provides that no person shall be convicted of any crime punishable by death without the testimony of at least two witnesses, or that which is equivalent thereto. As murder in the first degree may be punishable by death, this provision is applicable to conviction for that crime. Murder in the second degree and manslaughter are punishable only by fine and imprisonment. The statute therefore has no reference to conviction for these offenses. In other words, this statute applies only in cases of first degree murder.

You will observe that the statute does not require the testimony of two witnesses. It is enough if the testimony is, in the minds of the jury, equivalent to that of two witnesses to every important fact. If there are two or more witnesses, each testifying a different part of the same transaction or to different circumstances concerning the case tending directly to show the guilt of the party accused, it may be regarded as sufficient compliance with the statute, although

there may not be two witnesses to any one fact or circumstance in the case. Of course, you are to judge and decide what constitutes such evidence of two witnesses or its equivalent, whether the evidence be what is called direct or circumstantial, or whether it be made up of both classes. However, it is necessary, as I pointed out to you, that in every case of first degree murder the evidence must show that the crime was committed by the testimony of at least two witnesses or what is equivalent thereto.

Now, this statute simply means that the proof of all the essential elements of a capital crime, each of which must be proved beyond a reasonable doubt, may not depend upon the testimony of just one witness.

Now, if you were to find that the State has failed to produce the testimony of two witnesses or that which is equivalent thereto establishing the guilt of Joseph Taborsky, or of Arthur Culombe, for that matter, then you shall not convict him of first degree murder, which is punishable by death. If you find that the State has produced the testimony of but a single witness to establish the guilt of the accused, you shall not convict them of the crime of murder in the first degree, regardless of how positive and however credible that witness may be. And if you were to find that there is no evidence linking the accused to the homicides outside of their confessions, then you cannot convict them of any crime punishable by death, because a confession cannot be regarder as the equivalent of direct testimony. A confession or admission is not equal to one witness, nor does it have the value of one witness, since such confession is not direct testimony, but only circumstantial evidence of the truth of the facts contained therein, although under the circumstances of a particular case, that may be sufficient evidence of that fact.

If two or more persons participate in a crime, they are equally responsible although it was the immediate act of

one only which actually brought the crime about. The participation means not only actively sharing in its final commission, but in doing anything to aid, to assist, to inspire or to encourage the conduct which caused it. For example, if two automobiles are racing on the highway, each encouraging and inspiring the other to that act, and one driver causes the death of a person under such circumstances that he is guilty of a crime, the fact this his car alone struck that person would not take the responsibility for the commission of the crime from the other driver, but each would be equally guilty.

Now, in these cases you will find in each case that there is a second count. In the case of Arthur Culombe, in the first count he is charged with shooting and killing Edward J. Kurplewski, and my recollection is that he was the owner of the gasoline station, and my recollection is that the evidence indicates that he was shot by the accused Arthur Culombe. Of course, if there is any question about the correctness of my recollection, yours prevails and not mine. In the second count he is charged with murder in the first degree for having murdered one Daniel J. Janowski, and that said murder was perpetrated in a robbery. My recollection is that the evidence is - it is for you to determine what it shows - that Daniel J. Janowski was killed by the accused Joseph L. Taborsky in the perpetration of a robbery.

If you find it to be true that the State has proven that the accused Arthur Culombe and the accused Joseph L. Taborsky were committing the crime of robbery at the time and place named in the indictment on the 15th day of December, and that Daniel J. Janowski was, in fact, murdered by Joseph L. Taborsky, you could also find that Arthur Culombe was guilty of murder in the first degree under the second count under our law, and making the changes that are necessary, the reverse situation is true in

the other indictment wherein the jury could find or charge Joseph L. Taborsky with the murder of Daniel J. Janowski and in the second count with the murder of Edward J. Kurpiewski.

Now, we have a statute which provides: "Every person who shall assist, abet, counsel, cause, hire or command another to commit any offense may be prosecuted and punished as if he were the principal offender". If the accused did any one of those things specified in the statute, if in either instance you should so find, in the eyes of the law he is just as guilty of the crime charged as though he had directly committed it or directly participated in its commission.

I want particularly to emphasize to you that the statute does not connect the various things it specifies by the word "and", but instead separates them by the word "or". The accused is guilty of the crime chardeg if he assisted in any way in its commission, or if he abetted it, or counseled it, or caused, or hired, or commanded it to be done. The words of the statute are, I think, clear, except perhaps as regards the word "abet", and there the question is, did he encourage and incite the commission of the crime. To find him guilty you must, however, decide that he was more than inactively present at the commission of the crime, that he passively acquiesced in it, or that he innocently did certain acts which in fact did aid in the commission of the offense. Unless there was a criminality of intent and an unlawful purpose or purposes in common with the actual perpetration of the crime, he is not guilty under the statute I am now talking about. If you find beyond a reasonable doubt that either of these accused or both did any of the things specified in the statute with that criminal and common intent, they are just as much guilty of the crime as though they themselves committed it, and your verdict should be that they are guilty. Of course, if you find that

the State has not proved this to be so beyond a reasonable doubt, then the accused are entitled to a finding of not guilty on the second count in each indictment.

Now, I suppose, ladies and gentlemen, that I might at this juncture take the time to review the evidence which has been produced in this case upon the part of the State to show that the accused are guilty, as charged, in this indictment or in these indictments. Likewise, I might take the time to repeat the claims of the accused that they are innocent of the crimes with which they are charged. You have given careful attention to all the evidence in this case. You have patiently attended to every bit of the evidence produced here. The case has been ably presented on behalf of the State by counsel of experience and training. Likewise, the defendants have been represented by counsel who have been arduous in their efforts to present to you the interests of their clients. Having given careful attention to this evidence, and having listened patiently and attentively to everything that has been said by counsel on their behalf, it is not my purpose at this point to repeat that evidence to you. I am sure you have it all in mind. I am sure that you will consider every bit of this evidence in determining the guilt or innocence of these accused persons.

Now, the State claims, through a chain of circumstances, that the evidence points clearly and irresistibly to the conclusion that the accused murdered the individuals named in the indictments on the night in question. The State further claims that they were at the time committing the crime of robbery, and you will remember the evidence with respect to that.

The accused, on the other hand, have presented the question of mental capacity. Now, the claim of the accused in this case is that when they committed the crime with which they are charged, if you find the state has proven that

they did that, they were mentally incompetent. The law sometimes says "insane", but mentally incompetent in the case of State versus Arthur Culombe and insane in the case of State versus Joseph L. Taborsky.

You no doubt have noted that the State in putting on its evidence in the first instance, offered none to establish the sanity of the accused. The State was under no duty to offer evidence upon the issue of insanity unless and until evidence was offered on behalf of the accused that they were not sane or did not have the mental capacity which the law requires. It might then in rebuttal offer evidence that they were sane and did have mental capacity, as has been done. But because the State might in the first instance in presenting its evidence rest upon the assumption that the accused were sane does not in any way alter the fact that you cannot find either of them guilty unless, upon all the evidence, you are satisfied that they were sane, as I shall later explain the meaning of that word; for the law absolves from criminal responsibility a man whose mental condition does not reach the legal standard of sanity. Your sole question upon this issue is this: Are you satisfied beyond a reasonable doubt that the accused were same when they committed the crime with which they are charged?

To be the subject of punishment, an individual must have a mind and capacity, reason and understanding enough to enable him to judge of the nature, character and consequence of the act charged against him, to distinguish between right and wrong, to realize that the act is wrong and criminal, and that the commission of it will justly and properly expose him to penalties. This includes also one who, by reason of disease or abnormality, is for the time being bereft of will power, and for that reason wholly under the dominion of any impulse springing from his diseased or abnormal condition. One who acts upon an irresistible impulse, arising from disease or abnormality, falls within the protection of this definition.

Now, carefully and reasonably considered, ladies and gentleman of the jury, this definition is, I apprehend, concise and clear enough to be of conclusive application to any case where the plea of insanity is interposed as a defense to a charge of crime. But in cases presenting this inquiry, we are not infrequently confronted by a combination of legal and medical standards which perhaps tend to confuse jurors rather that enlighten them. You will observe that there is nothing elastic in the terms which the law employs to define its own test. This legal standard which I have given you, does not bend to any medical view that may be essentially based upon the idea that the legally sane may include persons or classes of persons who are from a medical standpoint not wholly sound in mind. So, in dealing with medical testimony in any such case, while it is, ladies and gentlemen of the jury, of course entitled to the greatest respect and consideration at your hands, you will weight it with a careful regard to the caution I have given you, remembering the clear and distinct test which the law prescribes, and inquiring in any given case whether it is upon that standard, the legal standard, that medical opinion has been given to you, or upon some standard which includes an impaired mental quality which we in law do not recognize as amounting to insanity in the law of criminal procedure.

A word further upon this branch of the case so that I may insure myself against being misunderstood. The definition of insanity which I have given you would include a mind which is either so naturally weak or so impaired by disease or otherwise to make its possessor incapable of distinguishing right from wrong. It would not include a mind which, while weak or incapable in some measure, is still sound enough to know right from wrong and to make the essential choice of courses, is still sound enough to resist an impulse which its possessor knows will result, if yielded to, in exposing him to just and proper punishment for crime.

To return to this definition for a moment then, two or three things are suggested by it as of vital consequence for the jury to consider and carry in mind in applying it. You will be careful to remember, in the first place, that a man of merely dull or deficient intellect, or abnormal mental quality, is not necessarily irresponsible within the meaning of the law. There are degrees of mental dullness or deficiency or disturbances, and it is only when the condition of mind in any given subject brings him, with references to the particular act involved, within the strict protection of the definition that I have given to you, that he is to be regarded as irresponsible in the eyes of the law.

It is quite important, ladies and gentlemen of the jury, that you recognize the distinction which I have suggested - so important, indeed, that I shall repeat to you once more the accepted definition of that kind or degree of insanity which absolves one so afflicted from punishment for his otherwise criminal acts. Again, then: To be the subject of punishment one must have mind and capacity, reason and understanding enough to enable him to judge of the nature, character and consequences of the act charged against him, that the act is wrong and criminal, and that the commission of it will justly and properly expose him to penalties. And he is within the law's protection if his mind is so diseased or abnormal as to render him incapable of resisting an impulse to do an otherwise criminal act.

So we come to the vital claim made on behalf of these accused - that they did not have the mental capacity which the law says they must have to be legally responsible. The evidence offered here in its support groups itself somewhat naturally under three heads: First, the testimony of ordinary observers - relatives and acquaintances of the accused, who are permitted under our practice to give their opinions to their soundness or unsoundness of mind, based upon such conduct and conversations of theirs as they have ob-

served in their associations with them. In considering the testimony of such witnesses, you must apply certain familiar and pertinent tests; whether any friendship for or interest in the accused has consciously or unconciously affected the witness's judgment is one of them. That is, you must look carefully for the real basis of the opinion. If you are satisfied that it honestly voices the judgment of the witness based on his own observation of the accused, you will, of course, accord it such weight as you think it is entitled to, bearing in mind the extent of his observation, the character of the incidents which he observed, and the witness's apparent degree of intelligence and reliability.

You have heard the testimony of the doctors, whom I may call the expert witnesses, given upon the result of personal examination. As to their personal examination, they examined the defendants both physically and mentally. The opinion of persons learned in medicine, having expert skill, based upon a personal physical examination, is worthy of your consideration. As I understand the testimony of the doctors in this case, their opinions were based not merely upon a physical examination and records which you have before you, but also upon mental examinations, largely upon the answers to questions given by the accused themselves. As a result of these examinations, the doctors offered here have judged the accused as they have testified.

It is but right for me to remind you that you should consider the base of that opinion, and if you find that they based it wholly or partially upon statements made to them by the accused, you should then consider whether the statements from the accused were to be believed or not. You are to remember that the accused were not upon oath when they made these statements to these doctors; that they were about to be put on trial for their lives; that they were vitally interested in the outcome of their cases, and that interest you ought to take into consideration in deciding what credit

you may give to the statements of the accused; that is, to decide whether these doctors received from these accused or from the accused with whom they talked, correct and true statements of fact. If they did, if the facts stated to them were true, then you might consider their opinion as of value. If you come to the conclusion that the answers were made in view of the trial, that you ought not to believe them - that you give them little weight, then you might consider that the opinion of the doctors, based upon such information, was of no great value. That is a matter I wish to ask you should carefully consider when dealing with the opionions of these experts. And you are to remember that these experts are not deciding this question for you. They are merely giving an opinion to you to help you to decide, for it is a question which you must decide and not they. It is for you to determine what weight, if any, you will give to their testimony.

The inquiry as to the mental condition of the accused persons relates to their condition at the time the acts charged were done. The question is whether either or both was not insane and irresponsible therefore at that time. As bearing upon that question, their condition at times prior and subsequent is relevant as tending to throw light upon their condition at the time in question, but such prior or subsequent condition has no other significance. The real question, I repeat, is, what was their condition when the act was committed, if you find that it was committed?

Reference has been made in this case to motive, and in this particular instance, as I recall it, it came up in connection with the testimony of a psychiatrist, but that is only my recollection. Yours will govern, and if it is different, disregard mine. But as I recall the question of motive, one of the psychiatrists, at least, for the accused Joseph L. Taborsky, testified that the motive of his actions was killing in itself, and evidence was introduced to support that

view, as I recall it. Of course, again your recollection is the one that governs. And the State introduced evidence, as I recall it, that the motive for the acts complained of here was not the killing but robbery, and that the killing was for another purpose, namely, to prevent identification and probable prosecution.

It is not necessary for the State to prove what reasons an accused has for committing a crime or what motivated him in doing it. Recognizing the fact that crimes are generally committed from some motive, evidence tending to show the existence of a motive is admissible and often is strong evidence tending to prove the guilt of an accused person if it appears that he has a motive. In the same manner, in any case where there appears no adequate motive on the part of a particular accused to commit the crime, that fact tends to raise a reasonable doubt as to the guilt of the accused. Whatever motivates a man, however, rests only in his own mind. No one else can look into his mind and see what is there. Whatever was in his mind must be inferred from his conduct in the light of the surrounding circumstances. A jury is entitled - indeed, is its duty to draw such inferences from a man's conduct as are reasonable inferences. A jury should examine the conduct of an accused in the light of the surrounding circumstances, knowing how the human mind ordinarily operates, and endeavor to determine whether, on all the evidence, it can be reasonably inferred that the accused did have a motive to commit the crime, and what that motive was.

I think that this is as good a time as any to bring to your attention a matter of great importance, and that is this: We are trying two separate cases and they are being tried together, but they must be judged by you separately. You will recall that in some instances evidence was admitted in the case of State vs. Arthur Culombe and striken out in the case of Joseph L. Taborsky and you were instructed

that you were to disregard it entirely in the case of Joseph L. Taborsky, by me, and it is your duty to disregard it in that case. The same thing applies to certain exhibits, and you will note that the exhibits marked by number, and the case of Joseph L. Taborsky is No 21,665, and you should not consider any evidence - any exhibits that are marked in the case of State vs. Arthur Culombe, which is No 21,666. Those exhibits which are admitted in that case only are to be considered only in that case. You will have the indictments in each case, and on the top of each case is the number of the case, so you needn't try to remember it. While it is a difficult thing to do, you must do it. It is your obligation, and you can do it. You must decide the guilt or innocence of Arthur Culombe solely upon the evidence which is admitted in this case. You must decide the innocence or the guilt of Joseph L. Taborsky solely on the testimony and exhibits that were admitted in his case, and you must not allow the evidence to intermingle. It is a difficult task, but it is one that I am quite sure that you can do when you understand clearly that you must.

There is but one other thing I would like to say. In any instance during the trial when there has been a question asked and an objection made, and I sustained the objection, you are to treat that question as if it had not been asked at all. In any instance where a question has been asked and the answer given and objection made and I have sustained the objection and stricken out the answer, you are to disregard that in its entirety. At any time during the trial, upon motion of counsel, if I have stricken any evidence from the record, that means that you are not to consider the evidence so stricken. In most instances I think that I called it to your attention, but I am bringing it to your attention again in order that I may recall it to your mind.

You will bear in mind that the indictments charges the accused with murder in the first degree, but the statute

provides that the jury before which any person is indicted for murder in the first degree may find him guilty of homicide in a lesser degree than that charged. This does not mean that if the facts found by the jury to have been proven make it a case of murder in the first degree, that the jury may render a verdict of murder of a lesser degree of homicide simply because they desire to do so. The jury is bound, under oath, to render a verdict in accordance with the evidence, and if the evidence which is believed by the jury makes out a case of a certain degree of homicide the jury must render a verdict of homicide in that degree and not in a lesser degree.

What the statute means is simply this: If on an indictment such as the ones before you, the facts so proven do not justify a verdict of guilty of murder in the first degree, but do justify a conviction of homicide in a lesser degree, the jury may and should bring in a verdict of guilty in that degree of homicide which is justified under the evidence. The greater offense includes the lesser. And to avoid needless expense or delay of a further trial, or trial upon a new indictment, the jury may determine the case under the original charge by finding the accused guilty of the lesser offense, where such a conviction is warranted and is the only one warranted upon the evidence. As I have previously said to you, if you entertain a reasonable doubt as between the greater and the lesser of the two crimes, then your verdict should be for the lesser of the two.

The statute governing murder provides in part as follows: "The jury before which any person indicted for murder shall be tried may find him guilty of homicide in a less degree than that charged." The law further provides that the Court shall submit the facts to the jury without directing how to find their verdict.

Anoth section in our law now provides that any person who shall commit murder in the first degree shall suffer

death, unless the jury shall, by its verdict, and as a part thereof, and upon and after a consideration of all the evidence, recommend imprisionment in the State Prison for life, in which case the sentence of the Court shall be imprisonment for life without benefit of release. And that means without benefit of securing a pardon or parole. So if you come to the conclusion that the accused are guilty of murder in the first degree under this indictment, then your verdict will be murder in the first degree. If you desire to recommend that they or either one of them shall be imprisoned for life, you must then say, "Murder in the first degree with the recommendation that the accused be imprisoned for life." The statutory punishment for first degree murder is death, subject only to the condition that the jury, in its absolute discretion, chooses to recommend imprisonment for life. Such a recommendation, however, shall not be made except upon and after a consideration of all the evidence, and by incorporation the recommendation in your verdict of guilty. The same evidence which has been accepted for the purpose of proving the guilt or innocence of the defendant, under these rules of law which I have given to you, may be considered and accepted by you not only for the purpose of determining the guilt or innocence of the defendents, but in the case of a conviction of murder in the first degree the same evidence may be used in determing whether or not you will make the recommendation that the accused be imprisoned for life.

If the State has proved beyond a reasonable doubt that the accused killed the persons named in these indictments, unlawfully, with malice, and while in the perpetration of a robbery, then your verdict must be guilty of murder in the first degree and your foreman should so say. If you decide that he or either of them is guilty of murder in the first degree, and if and upon and after a consideration of all the evidence you desire to recommend imprisonment in the State Prison for life, your verdict should be "Murder in the

first degree with the recommendation that he - or they - be imprisoned in the State Prision for life."

If the State has proved that he or they killed the persons named in the indictment, unlawfully, with malice, but has failed to proved that the killings were done while in the perpetration of a robbery, then your verdicts should be murder in the second degree.

If the State has proved that the accused killed the persons named in the indictment, unlawfully, without malice, then your verdict should be manslaughter.

And if you find that despite what the State may have proved, that the accused do not have the mental capacity, that they are insane within the definition that I have given to you, then your foreman should state and you should find that they are not guilty on the ground of insanity.

Finaly, if the State has failed to prove either murder in any degree, or manslaughter, under this indictment, then your verdict must be not guilty.

To support a verdict, it must be unanimous. This does not mean that each juror should pursue his own deliberation and judgment with no regard for the arguments and conclusions of his fellows, or that having reached a conclusion, he should obstinately adhere to it without a conscientious effort to test its validity by other views entertained by other jurors on the jury, equally wise and justly resolved to do their duty.

The State does not desire the conviction of innocent persons or of any person whose guilt, upon the evidence, there is a reasonable doubt. The State is as much concerned in having an innocent person acquitted as having a guilty person punished. But for the safety and well being of

society the State is concerned in securing the conviction of persons who have been proven by the evidence, beyond a reasonable doubt, to be guilty of committing some one of the crimes charged within these indictments. It is the sworn duty of courts and jurrors to safeguard the rights of persons charged with crime by respecting the presumption of innocence which the law imputes to every person so charged. But the law is made to protect society and innocent persons, and not to protect the guilty ones. If and when this presumption of innocence has been overcome or removed by evidence clearly demonstrating beyond a reasonable doubt that an accused person is guilty of the crime charged, then it is the sworn duty of the jury to enforce the law which is made for the protection of life, society and property, and to render such a verdict as the evidence warrants.

When you retire to the jury room you will have with you the indictments in these cases. You will also have the exhibits which have been introduced in evidence. You will choose a foreman. As I have said, your verdict in these cases must be unanimous. When you have agreed upon verdicts you should make that fact known to the officer in charge by knocking upon the door leading to the jury room, after which you will be permitted to return to the courtroom to announce the results of your deliberations. I want to say to you that there will be no written verdict. Your foreman will stand and announce the verdict that you have agreed upon, orally, and we will proceed from there.

Now, I think, ladies and gentlemen, this rounds out the full measure of my duty to you. I need not dwell upon the gravity of your office, the serious character of the responsibility which the law imposes upon you. You are sworn to act fearlessly and faithfully. You will leave sympathy and sentiment, prejudice and bias behind you when you enter your room for your deliberations. These elements are more subtle in their operation that we perhaps realize. They

sometimes creep unnoticed into a fair mind and intrude their influence when we least suspect their presence. You will guard against them here as you will guard against any other improper consideration which may divert you from a careful, dispassionate investigation of the evidence before you and a verdict based honestly upon your conclusions, letting your verdict, whatever it may be, reflect your sound, sober, honest judgment, unwraped by any consideration which your oath as jurors will not justify and approve.

You may now retire to the juryroom and the alternates may report to the alternates' room temporarily.

(The jury and alternates retire at 4:35 P.M.)

JUNE 27th, 1957, 11:00 P.M.

THE COURT: Bring up the accused, Sheriff.

(Accused present)

THE COURT: May I have the jury, Sheriff?

(Jury present)

THE COURT: Ladies and gentlemen of the jury, because the hour is now eleven o'clock I thought that I should send for you and ask you whether or not you want to continue your deliberations further tonight or you perfer to be excused until tomorrow morning. Would you prefer to stay and continue your deliberations now for a little while, or would you rather be excused at this time until tomorrow morning?

FOREMAN ROGER C. R. MILLER: I think that we would prefer to stay.

THE COURT: Very well, you may be excused, and when you are ready you will notify the sheriff.

(The jury retired at 11:02 P.M. and returned at 11:25 P.M. with a verdict of "guilty as charged" on the first and second counts in both indictments. Upon motion of Mr. McDonough, counsel for the accused Culombe, the jury was polled. At the direction of the Court the jury was also polled in the case of State vs. Taborsky. The following then occurred):

THE COURT: The verdicts are accepted. You may record them.

(The verdicts were again read by Assistant Clerk DiCorleto).

MR. BILL: If the Court pleases, I move for sentence in the case of Arthur Culombe.

THE COURT: Mr. Sheriff, make pronouncement of silence while sentence of death is pronounced against the prisoner at the bar.

THE SHERIFF: Everyone rise, please. Oyez, Oyez, Oyez. All persons before this Honorable Superior Court now in session are enjoined to silence upon pain of imprisonment while sentence of death is pronounced against the prisoner at the bar.

THE COURT: Mr. Sheriff, have the prisoner, Arthur Culombe, at the bar to receive his sentence. The sentence of this Court is that you, Arthur Culombe, are hereby remanded to the custody of the sheriff of this county to be conveyed by him or other proper authority within the next twenty days to the Connecticut State Prision at Wethersfield, where you shall thereafter be safely kept until the

16th day of December, 1957, whereupon the punishment of death shall be inflicted upon you, the execution of this sentence to be subject to and in accordance with the provisions of the statutes of this State.

You may escort him from the courtroom.

Mr. Sheriff, have the prisoner, Joseph L. Taborsky, at the bar to receive his sentence.

The sentence of this Court is that you, Joseph L. Taborsky, are hereby remanded to the custody of the sheriff of this county to be conveyed by him or other proper authority within the next twenty days to the Connecticut State Prison at Wethersfield, where you shall thereafter be safely kept until the 16th day of December, 1957, whereupon the punishment of death shall be inflicted upon you, the execution of this sentence to be subject to and in accordance with the provisions of the statutes of this State.

You may escort the accused from the courtroom.

THE ACCUSED TABORSKY: How about the second count?

THE COURT: You have been sentenced, Mr. Taborsky.

THE ACCUSED TABORSKY: I didn't want you to miss anything.

THE COURT: Thank you. Ladies and gentlemen of the jury, I want to tell you that the Commonwealth and the State are deeply indebted to you for the faithful and careful and industrious manner in which you have discharged your service as the jury in this case, and I am quite sure that the satisfaction of having done your duty conscientiously and well is one consolation that you will have forever. On a

more personal note I would like to ask each of you whether or not you have transportation to your homes this evening? Are there any of you who do not? Again the thanks of the State and the thanks of the Court to you for this service so performed. You may be excused, ladies and gentlemen, and when I say excused, I mean discharged. Sheriff, you may adjourn court until tomorrow morning at ten o'clock.

(Court adjourned)

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VOLUME IV

TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1960

No. 161

ARTHUR CULOMBE, PETITIONER

vs.

CONNECTICUT

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF ERRORS OF THE STATE OF CONNECTICUT

PETITION FOR CERTIORARI FILED MAY 12, 1960

CERTIORARI GRANTED JUNE 20, 1960

STATE OF CONNECTICUT

Supreme Court of Errors

HARTFORD COUNTY.

OCTOBER TERM, 1958.

4717

STATE OF CONNECTICUT

vs.

ARTHUR CULOMBE, ALIAS ARTHUR COLOMBE.

DEFENDANT'S APPEAL FROM SUPERIOR COURT.

HON. JAMES C. SHANNON, JUDGE.

For Plaintiff:

ALBERT S. BILL,
State's Attorney.

DOUGLAS B. WRIGHT AND
JOHN D. LABELLE,
Assistant State's Attorneys.

For Defendant:

ALEXANDER A. GOLDFARB,
Special Public Defender.

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To the Honorable Superior Court for the County of Hartford, now in session:

ALBERT S. BILL, State's Attorney within and for said County, here in Court accuses Arthur Colombe, of Hartford, Connecticut, of MURDER IN THE FIRST DEGREE, and charges that at the City of New Britain, on or about the 15th day of December, 1956, the said Arthur Colombe murdered Edward J. Kurpiewski and Daniel J. Janowski, thereby committing the crime of murder in the first degree, in violation of Section 8350 of the General Statutes, Revision of 1949;

And the said Arthur Colombe stands informed against by said Attorney for said crime and is presently in the Hartford County Jail:

WHEREFORE, the said Attorney prays that a bench warrant may issue against the said Arthur Colombe, and that he may be arrested and brought before the Superior Court to answer to said information and be dealt with according to law.

ALBERT S. BILL,
State's Attorney.

To the Sheriff of the County of Hartford, His Deputy, or to any State Policeman of the State of Connecticut, or to any proper officer, GREETING:

BY AUTHORITY OF THE STATE OF CONNECTICUT, You are hereby commanded to arrest the body of the within-named Arthur Colombe and him forthwith have before the Superior Court to answer to the foregoing information, and be thereon dealt with according to law.

Fail not but due service and return make.

Dated at Hartford, Connecticut, this 6th day of March, 1957.

By the Court.

WILLIAM F. FERGUSON,
Assistant Clerk.

To the Honorable Superior Court, holden at Hartford, within and for the County of Hartford, State of Connecticut, on the first Tuesday of March, A. D. 1957, and now in session:

FIRST COUNT.

The Grand Jurors within and for said County accuse Arthur Culombe, alias Arthur Colombe, of Hartford, Connecticut, of the crime of MURDER IN THE FIRST DEGREE and charge that at the City of New Britain, in said County of Hartford, on the 15th day of December, 1956, the said Arthur Culombe, alias Arthur Colombe, murdered one Edward J. Kurpiewski, and that said murder was committed in perpetrating a robbery.

SECOND COUNT.

And the said Grand Jurors further accuse the said Arthur Culombe, alias Arthur Colombe, of Hartford, Connecticut, of the crime of MURDER IN THE FIRST DEGREE and charge that at the City of New Britain, in said County of Hartford, on the 15th day of December, 1956, the said Arthur Culombe, alias Arthur Colombe, murdered one Daniel J. Janowski, and that said murder was committed in perpetrating a robbery.

Hartford, Conn.,
March 14, 1957.

A true bill.

VINCENT W. DENNIS,
Foreman of Grand Jury.

MOTION FOR CHANGE OF VENUE.

The defendant, Arthur Columbe, under the right given him by Section 8794 of the General Statutes of Connecticut, Revision of 1949, does hereby make this motion for a change of venue, and as reasons therefor sets forth the following:

1. That by reason of matters and incidents connected with this case and collateral to it, and other matters of a similar nature to that charged in this case, this case has received an enormous amount of notoriety and publicity in newspapers printed in the County, on radio commentary programs, and in television program newscasting:

2. That the newspapers, radio commentators and television newscasters, as aforesaid, have consistently and constantly for many weeks past continually referred to the defendant and the party charged with him as the "self-confessed mad killers";

3. That the newspapers printed in this County, the radio commentaries and the television newscasting statements, both by way of news items and editorials, have set forth statements detailing the confessions of the accused and the party charged with him, and have set forth the alleged confessions of multiple murders;

4. That by reason of the characterizations in newspapers, radio comments and television newscasts describing the said defendant and the party charged with him as "mad killers" and "confessed mad killers" the people of the County have become inflamed against the said defendant and over-wrought in their feelings in this matter, and, as a result thereof, it would be virtually impossible to obtain a jury of citizens of this County who have not already read, heard or seen stories of the confessions and the characterizations of the defendant and the party charged with him, and which could have a clear, unbiased and unprejudiced mind.

WHEREFORE the defendant, Arthur Culombe, respectfully moves the Court to change the venue of this case from Hartford County to Fairfield County in order that he may obtain, as given to him by his constitutional rights, a fair and impartial trial.

Defendant ARTHUR COLUMBE,

By THOMAS F. MCDONOUGH,
His Attorney.

Filed March 15, 1957.
Denied April 1, 1957—BORDON, *J.*

MEMORANDUM OF DECISION ON
DEFENDANTS' MOTION FOR CHANGE OF VENUE.

The defendants' motions for a change of venue are supported by evidence contemplated to show a liability to prejudice in Hartford County due to unusual publicity given the cases in the newspapers, on the radio and through television. There was, however, no evidence before the Court indicating prejudicial re-

sults from such publicity. Many witnesses testified to aroused public opinion, but no credible evidence was presented that such opinion had crystalized into unwavering conclusions precluding a fair trial. Nor was there any evidence of expressed or vigorous public sentiment that such a trial could not be had in Hartford County. Few of the witnesses could be regarded as competent to interpret public opinion accurately, and most of them testified that mass discussions among citizens of the country indicated opinions that a fair trial could be had within the county.

Prior to the apprehension of the defendants there had been a number of atrocious holdup killings which created fear and panic among many businessmen, particularly gas station operators, package store owners, and operators of small shops in outlying places. The newspapers exploited their journalistic license by dramatizing their stories, by calling the defendants "mad killers", and by showing pictures of the defendants and of places wherein alleged killings occurred. Undoubtedly such publicity had an impact on general public opinion and probably created indelible marks on many people who, prior to the apprehension of the defendants, regarded themselves as probable victims. But, despite the efficient publicity, it is doubtful that there are many people in the county who would be unwilling to accord the defendants a fair trial. So strongly is the American system of justice embedded in the minds of our citizens that outraged feelings usually give way to a desire for orderly procedure.

The right of the defendants to a change of venue is created by Section 8794, General Statutes, Revision 1949. This statute provides that a judge holding any term of the Superior Court *may*, upon motion, order any criminal case pending in such court to be transferred to the Superior Court in any other county. The defendants do not have an inherent right to a change of venue. The constitutional and statutory guarantees with which an accused is clothed do not include the right to a change of venue. The statute authorizing it leaves it to the discretion of the presiding judge without providing any reasons or causes which could control the exercise of such discretion, and does not attempt to state the grounds upon which the Court may make the order. The purpose of the statute is, obviously, to confer power on the presiding judge in the event he deems it necessary

to further safeguard the rights of an accused. The burden of proof is, therefore, on the defendants to establish the reasons and need for a change as contained in their motions. *State v. Cianflone*, 98 Conn. 454, 461. The statute clearly denotes that such a motion is addressed to the sound discretion of the Court, and is not one of the fundamental rights accorded an accused charged with crime. *State v. Luria*, 100 Conn. 207, 209.

Perhaps the leading case in this State on the subject is that of *State v. Chapman*, 103 Conn. 453, 469. Chapman was accused of killing a police officer in New Britain. The newspapers gave the case wide publicity. The motion for change of venue was supported, as here, by considerable evidence tending to show a liability to local prejudice in Hartford County due to the unusual publicity given to the case, particularly in the newspapers. Chapman was a rather colorful criminal and the newspapers exploited, spiced, dramatized and colored their stories to attract the reading public. The trial court ruled that, in spite of the publicity given the case, a fair trial could be given the accused in Hartford County and the Supreme Court sustained this ruling in these words: "It is within the reasonable discretion of the trial court to grant a change of venue when it clearly appears that a fair and impartial trial cannot be had in the county where the venue is laid in the indictment. The *burden of showing this is upon the mover of the change of venue.*" *Crocker v. Justices of the Superior Court*, 208 Mass. 162, 94 N. E. 369; *Downs v. State*, 111 Md. 241, 73 Atl. 893; *Burns v. Pennsylvania R. Co.* 222 Pa. St. 406, 71 Atl. 1054; *People v. Pfanschmidt*, 262 Ill. 411, 440, 104 N. E. 804.

Another important case in which this question was raised and pressed as a ground for appeal was that of *State v. Palke*, 122 Conn. 529 at 537. In that case the accused was charged with killing a Bridgeport police officer, and he moved for a change of venue on the ground that there had been such wide publicity of a nature so derogatory to him that a fair trial by an impartial jury could not be had in Fairfield County. The Supreme Court held that the "burden of showing this is on the mover of the change of venue." The power to grant a change of venue is to be exercised with caution and rests in the Court's sound discretion, which is final unless it appears clearly that it has exercised the discretion unreasonably. *State v. Chin Lung*, 106 Conn. 701, 717.

This question was more recently raised in the case of *State v. Rogers*, 143 Conn. 167, 171. The basis of the two motions for a change of venue was the widespread publicity given the killing of Mrs. Kennedy while she was alone in a package store, and later, the publicity attending the defendant's statement to the police and to the coroner. The trial court denied the motion and this decision was sustained by the Supreme Court on the ground that the burden of showing that a fair and impartial trial could not be had in the county of origin is on the defendant, and that he must show more than that the crime received considerable publicity. He must demonstrate that the publicity was necessarily prejudicial to him and prevented his being accorded a fair and impartial trial. *State v. Rocco*, 109 Conn. 571, 572; *State v. Leopold*, 110 Conn. 55, 58.

There are some instances where a failure to grant a change of venue has been held to be error. In the case of *Shepherd et al v. Florida*, 341 U.S. 50, the United States Supreme Court ruled that the Florida trial court should have granted a change of venue and that the State Supreme Court should have overruled the trial court for failing to do so. In this case the accused were negroes charged with rape of a white girl. The newspapers had falsely published that the accused had confessed, but no confessions were offered at the trial. The newspapers attributed the information to the sheriff who failed to repudiate the story. The aroused public opinion caused by inflammatory newspaper articles was mainly due to race prejudice and a claim by the state that "inflamed public sentiment was against the crime with which the defendants were charged rather than the defendants' race was more charitable than realistic." There is no need to emphasize that no such prejudice could possibly exist in Hartford County.

In the case of *United States v. Florio*, 13 F.R.D. 296, Judge Kaufman granted a change of venue because he found it impossible to give the defendant a fair trial in New York due to inflammatory publicity. The Federal rule differs from our statute in that the Court is virtually ordered to transfer where the Court is satisfied that there exists so great a prejudice against the defendant that he cannot obtain a fair and impartial trial in the district in which he is first charged. The trial judge found that such prejudice existed. *United States v. Parr*, 17 F.R.D. 512;

Cox v. State, 234 S. W. 72; *State v. Crafton*, 56 N. W. 257; *Gallagher v. State*, 50 S. W. 388.

In the case of *Delaney v. United States*, 199 Fed. (2nd) 107, the Court ruled that failure to grant a postponement of the trial was error, because Congressional investigation of the affairs of the defendant was in progress at that time and the rights of the defendant prejudiced. This ruling apparently fitted the circumstances of the case, but is not authority for defendant's claims because no motion for change of venue was filed.

It is fair to say that the preponderance of judicial opinion on the subject calls for a finding by the trial court that public prejudice would preclude a fair trial. Intemperate expressions of a mass of people following inflammatory publicity are insufficient to show the impossibility of a fair trial in a county the size of Hartford County. 58 A. J. Section 70; *Elias v. Territory*, 9 Ariz. 1, 76 Pac. 605; *State v. Schneider*, 158 Wash. 504, 291 Pac. 1093. Proof that derogatory articles were published in some of the cities of the county, and publicized throughout the county by radio and television is not proof that a fair trial cannot be held within the county, or that the county as a whole is so prejudiced that a fair trial cannot be had. *Penn. R. Co. v. Reading*, 254 Pa. 110, 98 A. 791; *State v. Gordon*, 32 N. D. 31, 155 N. W. 59.

From the evidence presented, the Court is of the opinion that a jury can be selected in Hartford County that would be fair and impartial, and that the defendants will get a fair trial. With the peremptory challenges enjoyed by each defendant under our law and with the additional safeguards assured them by a fair and impartial presiding judge, during the selection of a jury, the defendants will be doubly guaranteed of a fair trial.

The motions for a change of venue are denied.

BORDEN, *J.*

Filed April 1, 1957.

At a Criminal Session of the Superior Court, holden at Hartford in and for the County of Hartford, in the State of Connecticut, on the first Tuesday of April, in the year of our Lord, one thousand nine hundred fifty-seven.

Present, HON. JAMES C. SHANNON, JUDGE.

No. 21666
STATE
vs.
ARTHUR CULOMBE, ALIAS ARTHUR COLOMBE.
June 28th, 1957.

The Grand Jurors within and for said County accuse Arthur Culombe, alias Arthur Colombe, of Hartford, Connecticut, of the crime of Murder in the First Degree and charge that at the City of New Britain, in said County of Hartford, on the 15th day of December, 1956, the said Arthur Culombe, alias Arthur Colombe, murdered one Edward J. Kurpiewski, and that said murder was committed in perpetrating a robbery, as charged in the First Count, and further accuse the said Arthur Culombe, alias Arthur Colombe, of Hartford, Connecticut, of the crime of Murder in the First Degree and charge that at the City of New Britain, in said County of Hartford, on the 15th day of December, 1956, the said Arthur Culombe, alias Arthur Colombe, murdered one Daniel J. Janowski, and that said murder was committed in perpetrating a robbery, as charged in the Second Count, as by said indictment on file will appear.

To said indictment, on March 14th, 1957, the said Arthur Culombe, alias Arthur Colombe pleaded and said he was not guilty and elected to be tried by a Jury.

On March 15, 1957 the said Arthur Culombe, alias Arthur Colombe, filed a Motion for Change of venue and on April 1, 1957 the court (BORDEN, *J.*) denied said Motion.

On April 23, 1957 the said Arthur Culombe, alias Arthur Colombe, made an oral Motion for Change of venue and on the same day the court (SHANNON, *J.*) denied said motion.

Jurors sworn:

Santo Cannarella	Roger C. R. Miller
George W. Hannon	Mrs. Viola Vincent
John F. Madden	Mrs. Ada Hodgson
Carmen Pace	Richard G. Rothwell
George W. Williams	Mrs. Maryanne Thomas
Miss Mildred Mastrobattisto	Michael Nolan

Alternate—Roger W. Eddy
Alternate—Mrs. Alice Bacon

Said cause having been fully heard and committed to the Jury, they by their verdict, find the said Arthur Culombe, alias Arthur Colombe guilty of the crime of Murder in the First Degree as charged in the First and Second Counts of said indictment. The court accepted said verdict. The defendant thereupon filed his Motion to set aside the verdict and the court having heard the parties on said Motion denied the same this day.

WHEREUPON, this Court doth accordingly adjudge the said Arthur Culombe, alias Arthur Colombe, guilty as charged in the First and Second Counts of said indictment and that he be imprisoned in the Connecticut State Prison until December 16, 1957, upon which day he shall be put to death by electrocution, according to the law of the State of Connecticut.

By the Court,

DOMINIC A. DICORLETO,
Assistant Clerk.

MOTION TO SET ASIDE VERDICT.

The defendant hereby moves to set aside the verdict rendered in the above case because:

1. It is contrary to law.
2. It is against the evidence.

Motion to set aside verdict.
Filed June 27, 1957.
Motion Denied—6/28/57.

SHANNON, *J.*

No. 2166	Superior Court,
STATE OF CONNECTICUT	Hartford County,
vs.	Criminal Session,
ARTHUR CULOMBE.	July 3, 1957.

DEFENDANT'S APPEAL.

In the above-entitled action the defendant, Arthur Culombe, appeals to the Supreme Court of Errors from the judgment rendered therein and from the decision of the Court denying the motion to set aside the verdict.

Appellant-Defendant,

ARTHUR CULOMBE,

By THOS. F. MCDONOUGH,

Special Public Defender.

You, Thomas F. McDonough, of Hartford, deemed by me to be of sufficient financial responsibility to pay any costs which may be adjudged against Arthur Culombe on his Appeal in the above-entitled action, as surety, acknowledge yourself to be bound to the State of Connecticut, plaintiff in said action, in a recognizance in the sum of $150.00, that the said Arthur Culombe will prosecute the foregoing appeal to full effect and pay any costs for which judgment may be rendered against him.

Dated at Hartford this 3rd day of July, 1957.

WILLIAM F. FERGUSON,

Commissioner of the Superior Court.

I certify that the foregoing appeal was filed on the third day of July, 1957; that the defendant has paid the record fee of the Supreme Court of Errors and the entry fee; and that Thomas F. McDonough is recognized in the sum of One Hundred Fifty Dollars, conditioned that the said defendant shall prosecute said Appeal to effect, and pay all costs therein if he should fail to do so, and said Appeal is hereby allowed.

WILLIAM F. FERGUSON,

Assistant Clerk of the Superior Court.

DEFENDANT'S REQUEST FOR FINDING.

The appellant (defendant) in the above-entitled case respectfully requests a Finding of Facts for an appeal to the Supreme Court of Errors, and submits the draft finding hereto annexed.

QUESTIONS OF LAW.

The questions of law which he desired to have reviewed are:

1. Did the Court err in refusing to grant a Change of Venue where the evidence disclosed a vast amount of publicity by newspapers, radio, and television which created in prospective jurors a deepseated hostility towards the defendant, making it impossible for him to obtain a trial by a fair and impartial jury?

2. Did the Court err in permitting the introduction into evidence of the alleged confessions of Culombe after it was shown the same was obtained by coercion and duress of a psychological nature?

3. Did the Court err in admitting into evidence those portions of the confession of the co-defendant, Taborsky, which implicated the defendant, Culombe, notwithstanding the Court's instruction to the jury to disregard this matter as to the defendant Culombe?

4. Did the Court err in refusing to grant a motion to dismiss the action against Culombe where the only evidence implicating the defendant, Culombe was his own admissions and confession?

5. Did the Court err in refusing to grant a motion to dismiss the case against the defendant, Culombe, where the evidence produced by the State against him was not that of two witnesses or the equivalent of two witnesses?

6. Did the Court err in refusing to grant a motion to set aside the verdict of the jury where the same was contrary to and inconsistent with the evidence produced?

7. Did the Court err in refusing to excuse the juror George W. Hannan, who participated, as a member of a public authority, in voting for a reward for the capture and conviction of

the persons responsible for a killing in East Hartford, when it was shown that the defendant, Culombe, was charged with such killing and newspapers had reported a confession by him?

8. Did the Court err in not furnishing counsel to Culombe at his arraignment prior to any proceedings which resulted in his being remanded to police custody?

9. Did the Court err in remanding Culombe to the custody of police, and in holding a hearing thereon without first furnishing him with counsel, as he had requested?

10. Did the Court err in not granting the motion to set aside the verdict where there was no proof of a robbery's having been committed, as set forth in the indictment, during which the killings of the victims allegedly occurred?

DRAFT FINDING.

FIRST:

Upon the trial of this case to the jury the State offered evidence to prove and claimed proof of the following facts:

26. The witness Rosohn was not able to state that the bottles shown him were the same as those he gave to officer Gutowski. (T. 126)

27. The bullets found in the men examined were distorted, disfigured, and had no external configuration similar to that which is usually associated with a bullet. (T. 128)

32. Arthur Culombe was held in the State Police Barracks under arrest from Saturday evening at about 10:00 p.m. until the following Tuesday morning before being arraigned before any Court. (T. 396A)

33. After holding Arthur Culombe in State Police Headquarters in a cell under arrest from Saturday evening, the State Police took him to New Britain the following Monday afternoon to be booked for Breach of the Peace. (T. 397)

34. On Tuesday morning Arthur Culombe was brought to the Police Court in New Britain, returned to the State Police Headquarters in Hartford, and then taken to the County Jail. (T. 402)

35. Culombe was arrested for a violation of Section 195 (d) of the 1955 Supplement to the General Statutes, but was at no time arraigned on this charge, but was charged with Breach of the Peace in the Police Court of New Britain. (T. 486-488)

36. Culombe was not booked or charged with the commission of, or suspicion of, the commission of a felony when presented to the New Britain Police Court.

37. Culombe was arrested and presented before the Honorable Judge Abraham S. Bordon of the Superior Court on Thursday morning following his arrest.

38. On Wednesday, February 27, 1957, following his appearance in court, Culombe was taken from the County Jail and brought to the State Police Barracks against his wishes and contrary to a court order requiring that he be held at the jail.

39. A statement was taken from Arthur Culombe by the police regarding his involvment in the crime charged here.

40. In a proceeding before the Superior Court, Judge Abraham S. Bordon presiding, Culombe was remanded to the custody of the police without counsel first being provided for him.

FIFTH:

Hearing on motion for change of venue.

1. The defendant, Arthur Culombe, moved for a change of venue on the grounds that because of the inordinate publicity in newspapers, on radio and on television, a fair and impartial trial could not be obtained.

2. The following newspapers were brought into Court through their editors:

Hartford Times	Sunday Herald
Hartford Courant	Manchester Herald
New Britain Herald	Bristol Press

3. The editors of these newspapers related the extensive coverage given the series of murders allegedly committed by the defendant.

4. The newspaper stories featured the alleged confessions of the defendant.

5. Editorials named the defendant as a "mad dog killer."

6. The following radio stations' personnel were brought to Court:

WPOP WTIC WDRC WCCC

7. The witnesses related the extensive coverage given the murders, the apprehension of the alleged killers, and the confessions obtained from the defendant.

8. The following television stations' personnel were brought to Court:

WNBC WHCT

9. The witnesses related the extensive coverage of the television stations to the series of killings.

10. Extensive coverage was given to the confessions allegedly obtained from the "mad killers."

11. A cross section of citizens, county wide, testified to the effect upon the public of the news coverage as detrimental to the defendant. Prospective jurors in the panel of talesmen related that they knew of the confessions, read the newspaper stories, listened to radio broadcasts and television newscasts regarding the apprehension of the defendant, of his background and his confession of guilt.

12. Jurors were placed on the trial jury who had a preconceived notion of the defendant's guilt from the reading and hearing of the confession he allegedly had made.

13. One juror, George W. Hannan, participated in voting for a reward for the capture and conviction of the killers, and allegedly defendant was one.

14. A motion was made to excuse the said juror for cause, which was denied, that a motion made to permit the use of a preempting challenge was denied.

15. The information regarding this juror was not known to the defendant until after he was accepted on the jury.

Respectfully submitted,

Defendant, ARTHUR CULOMBE,
By THOS. F. MCDONOUGH,
His Attorney,
Special Public Defender.

Filed October 31, 1957.

FINDING.

I.

Upon the trial of this case to the jury the State offered evidence to prove and claimed to have proved the following facts:

1. On December 15, 1956, at about six o'clock in the afternoon, the witness Staron entered a gas station on Stanley Street in New Britain and discovered the body of a man in the furnace room.

2. After discovering the body of the first man, the witness Staron entered the men's room, so-called, of the gasoline station and discovered the body of another man.

3. The body of the first man found in the furnace room was in a sitting position; the body of the second man was in a sitting position underneath the washbowl in the men's room.

4. On the toilet floor there was a considerable amount of blood.

5. The body of the man found in the furnace room of the gasoline station was warm when the witness Kelly arrived there.

6. The witness Kelly examined the body of the man found in the furnace room and determined that he was dead.

7. The witness Kelly found a 1954 green Ford automobile parked at the south pump of the gasoline station.

8. There was a little girl in the front seat of the automobile.

9. The witness Kelly examined the body of the man found in the furnace room and upon searching his pockets found several dollars.

10. The witness Harper arrived at the gasoline station and took some photographs at the scene.

11. Investigation at the gasoline station did not disclose any fingerprints or other identification marks.

12. A hole found in a rear window was unable to be identified as to its cause or time of being made.

13. A search of the premises at the gas station did not disclose any spent bullets or cartridge shells.

14. One of the dead men found at the gasoline station was Edward Kurpiewski, and the other dead man was Daniel Janowski.

15. At about 6:15 to 6:30 p.m. on December 15, 1956, the witness Doctor Takarczyk came to a gasoline station on Stanley Street, New Britain, and, after examining two men, pronounced them dead.

16. On the morning of December 16, 1956, at the New Britain General Hospital the witness Dr. Paul D. Rosohn performed an autopsy on the body of one Edward Kurpiewski and, as a result of said autopsy, determined that the cause of Kurpiewski's death was a bullet wound in the head.

17. Examination of the skull of Kurpiewski revealed the presence of a bullet and a fragment of a bullet.

18. The bullet and fragment of a bullet were placed in a specimen jar by the witness Dr. Rosohn and given to a police officer named Joseph Gutowski.

19. On the morning of December 16, 1956, the witness Dr. Paul D. Rosohn performed an autopsy on the body of Daniel Janowski and determined the cause of death to be due to bullet wounds in the head.

20. Examination of the skull disclosed the presence of two bullets and a fragment of a bullet.

21. The two bullets and the fragment were placed in two containers and given to police officer Joseph Gutowski.

22. The containers in which the bullets were placed were not sealed. The containers were ordinary jars obtainable from any hospital supply house. There was nothing unique about the jars.

23. Examination during autopsy did not disclose any powder burns on the body of Daniel Janowski.

24. Examination of the body of Edward Kurpiewski disclosed some evidence of powder burns.

25. The witness Coffey, a police officer, searched the station and found in the top drawer of a metal desk the sum of one hundred thirty-three ($133) dollars in bills and eight dollars seventy-five cents ($8.75) in silver.

26. On the afternoon of December 15, 1956, Joseph Taborsky and Arthur Culombe were seen together in front of 21 Coleman Drive, Hartford, Connecticut.

27. In the evening of December 15, 1956, Joseph Taborsky and Arthur Culombe were seen together in front of 21 Coleman Drive, Hartford, Connecticut.

28. On February 23, 1957, Joseph Taborsky and Arthur Culombe were together in front of 226 Park Terrace, Hartford, Connecticut, and were instructed by two State policemen to report to State Police Headquarters.

29. On December 15, 1956, the accused, Arthur Culombe, was 32 years old and lived in a housing project No. 20 Coleman Drive in Hartford with his wife and two small children.

30. At and since December 14, 1953 Culombe had been employed by the Hartford Despatch & Warehouse Company. He was a freight handler, unloading freight from railroad cars and trucks. Since April 1956 he was paid $1.87 per hour, forty hours per week, eight hours per day. His net weekly take home pay varied according to overtime, such as $95.02 for the week of July 14, 1956 and $82.28 for the week of November 17, 1956.

31. On December 15, 1956, the accused, Joseph Taborsky, was 33 years old; formerly lived in Hartford and moved to Brooklyn, New York in September 1956. He married in October, 1956. While in Brooklyn he obtained work on moving vans but the employment was unsteady, due to lack of union seniority.

32. From November 1956, during weekends, Taborsky visited Culombe at Culombe's home at 20 Coleman Drive, Hartford.

33. In the evening of Friday, December 14, 1956 and during the day and evening of Saturday, December 15, 1956, the Hartford and New Britain area suffered a severe ice storm which caused a general breakdown in the power and lighting system in both areas.

34. On Saturday, December 15, 1956 at about 12:00 o'clock noon, Arthur Culombe purchased a used television set from one Frank J. Franczek in East Hartford. He paid a deposit of $10.00 and agreed to pay the balance in installments of $5.00 each week.

35. Culombe paid said Frank J. Franczek the entire balance of $21.50 the next Monday, December 17, 1956.

36. In the afternoon of December 15, 1956 Joseph Taborsky and Arthur Culombe removed a television set from an automobile parked across the street from Culombe's house No. 20 Coleman Drive, Hartford and carried it into Culombe's house.

37. Kurp's Tydol Gas Station conducted by Edward Kurpiewski of New Britain was located on the east side of and known as No. 1707 Stanley Street in New Britain.

38. At or about 6:30 o'clock in the afternoon of December 15, 1956 due to the ice storm there was a failure of power and lights on Stanley Street in the vicinity of Kurp's Gas Station.

39. At said time Kurp's Gas Station was brightly lighted both inside and out by private generators.

40. Taborsky and Culombe had been acquainted since 1951.

41. On the afternoon of Saturday, December 15, 1956, about 6:00 o'clock p.m. Taborsky and Culombe, both armed, drove in a southerly direction along Stanley Street in New Britain. Culombe was driving the car with Taborsky in the passenger seat. Their purpose was to find a favorable place for a hold-up.

42. While proceeding along Stanley Street they passed Kurp's Gas Station for a short distance when Culombe, the driver turned the car around and drove to and entered the premises of said Kurp's Gas Station.

43. The car was then parked between the gas pumps and the service station building headed in a northerly direction.

44. At this time, the proprietor, Edward Kurpiewski, came from the service station building and Culombe asked him to fill up the gas tank.

45. Kurpiewski was wearing a gas station attendant's cap with a black visor.

46. While Kurpiewski was filling up the gas tank Taborsky announced that he wanted to go to the toilet whereupon he left the car and entered the gas station.

47. In the meantime Kurpiewski filled the gas tank and Culombe paid him $2.00.

48. Culombe then walked toward the gas station stating he was going to the men's room.

49. Kurpiewski followed him and when Kurpiewski entered the door to the station Culombe drew his gun, pointed it at Kurpiewski, told him it was a stick-up and ordered him to put up his hands.

50. Culombe then ordered Kurpiewski into the boiler room which was situated at the east side or rear of the station in a direct line with the entrance door.

51. Kurpiewski entered the boiler room followed by Culombe gun in hand.

52. Culombe ordered Kurpiewski into the corner of the room and when he failed to comply Culombe pushed him with his left hand.

53. Kurpiewski hit the wall with his back then appeared to come toward Culombe.

54. Culombe again pushed Kurpiewski and the gun went off, the bullet striking Kurpiewski in the head.

55. Kurpiewski dropped to the floor in a sitting position whereupon Culombe lifted his body and took a wallet from his rear pocket.

56. Culombe then left the boiler room and joined Taborsky in the main office of the station.

57. Taborsky and Culombe searched for money and in doing so pried open the cash register and took some money which Taborsky put in his pocket. Some more money was found in the desk. The cabinet and some boxes were searched.

58. While the search was in progress Daniel J. Janowski of New Britain, accompanied by his 18 old months daughter, drove his car into the gas station drive headed in a southerly

direction and parked his car at the south gas pump. His car was a green 1954 Ford.

59. Taborsky and Culombe waited a few moments and when Janowski failed to drive away both left the station and approached the Janowski car.

60. Culombe pretended to be a gas attendant and upon inquiry of Janowski as to the amount of gas he wanted was told two dollars worth.

61. As Culombe reached for the gas hose Taborsky pointed a gun at Janowski, took his wallet containing $4.00 and ordered him into the station and then into the toilet which was located in the rear of the station adjoining the boiler room on the south.

62. Janowski entered the toilet followed by Taborsky.

63. Thereupon Taborsky shot Janowski twice in the left side of the head just above the ear and Janowski slumped to a sitting position on the floor between the toilet and the wash bowl.

64. Taborsky and Culombe then drove to Culombe's home in Hartford where the money taken from the gas station and the wallets totaling $100 and $133 was divided equally between them.

65. Taborsky then gave to Culombe the gun with which Taborsky shot Janowski and the wallet he took from Janowski. Culombe threw this wallet and the one he took from Kurpiewski either in the rubbish in his yard or in a brook across the way on Flatbush Avenue. Culombe put the two guns in his safe. The following day he threw them into the swamp at the corner of Newfield and Dexter Avenues in Hartford.

66. Between 8:00 and 9:00 o'clock in the evening of said December 15th, Taborsky and Culombe were sitting together in a car parked in front of Culombe's home at Coleman Drive, Hartford.

67. As a neighbor, John Harris, approached the car, Culombe rolled down the window on the passenger side. Harris looked in the car, recognized Taborsky and Culombe and offered to assist them by giving their car a shove which was refused.

68. At about 6:00 o'clock in the afternoon of said December 15th, Chester Staron, a bus driver, stopped his bus on the west side of said Stanley Street in front of said Kurpiewski's Gas Station and went into the station to use the telephone. As he passed the pumps he saw a green 1954 Ford parked by the pumps and facing south. He noticed no occupant of the car at the time.

69. When he entered the gas station he hollered out asking if anybody was around. There was no answer and he decided to use a telephone down the road. When he left the gas station he noticed a little girl in the parked 1954 Ford with her nose pressed against the window.

70. Thereupon Staron returned to the gas station, opened the boiler room door and discovered the body of a man unknown to him but later identified as Edward Kurpiewski. He was in a sitting position with his head tilted forward. Staron noticed a furnace in the room and some cases of soda. He shook the man and called to him but there was no answer.

71. Staron then left the room and opened the door to the Men's Room. There he found another man unknown to him but later identified as Daniel Janowski. He was in a sitting position underneath the washbowl with his head tilted forward. There was a considerable amount of blood on the floor in the toilet. Staron called the police and awaited their arrival.

72. Captain Kelly of the New Britain Police Department arrived at the gas station at approximately ten minutes after six o'clock p.m. He found Kurpiewski in the boiler room in the corner in a sitting position with his head drooped forward. His body was warm and he was bleeding from a wound over his left forehead. Believing him still alive, Kelly and another officer moved him on a stretcher into the office. Shortly thereafter he was pronounced dead by the medical exeaminer.

73. Captain Kelly then entered the Men's Room and found the body of Janowski. He was in a sitting position next to the toilet and under the washbowl. Blood was on the floor and he was bleeding from the left side of his head. Shortly thereafter he was pronounced dead by the medical examiner.

74. Captain Kelly went outside the station and found the little girl in the car and had her taken to Police Headquarters. The little girl was Cheryl Janowski, about a year and one-half old and was the daughter of said Daniel Janowski.

75. In the gas station the drawer to the desk was found open and papers strewn on the floor.

76. A cap with a visor (State's Exhibit T) belonged to Edward Kurpiewski and he was wearing the cap in the afternoon of December 15th.

77. On December 15th at about 7:30 p.m. the cap (State's Exhibit T) was found against the west wall in the boiler room where the body of Kurpiewski was found.

78. In front of the gas station between the sidewalk and the pumps was a commercial gas sign with the printed words

FLYING

A

SERVICE

with wings protruding from both sides of the letter "A". (State's Exhibit J).

79. The death of Edward Kurpiewski on December 15, 1956 was caused by a bullet wound in the head. The point of entry of this bullet was located in the left temporal region just above the left eye with no point of exit. Dr. Rosohn, the pathologist, who conducted the autopsy removed the bullet and fragment of a bullet from Kurpiewski's head. (State's Exhibit Q).

80. The cause of death of Daniel Janowski was two bullet wounds in the head above the left ear and beneath the hair. Dr. Rosohn performed an autopsy and removed two bullets and a fragment from Janowski's head. (State's Exhibit R1 and R2).

81. During the investigation of the deaths of Kurpiewski and Janowski, State Police Officers Moran and Griffin, on February 23, 1957 at about 2:10 p.m. observed Taborsky and Culombe leaving the home of Taborsky's mother on Park Terrace, Hartford. The officers approached them just as they were entering a parked car in front of the Taborsky home when Officer

Moran told Taborsky that Lt. Rome wanted to talk to him at State Police Headquarters. Taborsky stated that he was willing to go.

82. Taborsky, with Culombe driving, followed the officers' car to State Police Headquarters on Washington Street, Hartford, where Culombe stopped the car. Taborsky left the car and walked into Headquarters with the police while Culombe drove off.

83. About 2:30 o'clock the same afternoon Sgt. Paige and Officer Reimer of the State Police went to Culombe's home at 20 Coleman Drive, Hartford, to bring him back to the State Police Barracks. His wife reported he was in the toilet and during the five minute wait the officers could hear the sound of metallic noises coming from the toilet.

84. Culombe was then taken to State Police Headquarters where Lt. Rome talked to both Taborsky and Culombe. Both agreed to accompany officers to different places for purpose of identification.

85. Taborsky and Culombe then accompanied Sgt. Paige and two other officers to the towns of Coventry and Rocky Hill. They had supper, then returned to the State Police Barracks.

86. Upon return to the barracks Culombe told Sgt. Paige he was a gun collector and he had seven or eight guns at his house which he agreed to turn over to the police.

87. Sgt. Paige and Officer Carlberg went with Culombe to his home.

88. Culombe left the officers in the living room, went to the toilet, then to a bedroom where the officers found him with two guns, a .25 and a .38. They found a .25 clip of cartridges with bullets in the drawer he had first closed. In a small safe they found six guns and three boxes of ammunition. (State's Exhibits X, Y).

89. Thereupon Culombe was returned to the barracks and Sgt. Paige talked to Culombe for a short while then discontinued the investigation. Lt. Rome talked with Culombe about two hours that evening then Culombe was locked up for the night at the barracks.

90. During the investigation Culombe was questioned about the New Britain affair of December 15th as well as other matters.

91. Lt. Rome placed Culombe in custody at 10:00 o'clock Saturday evening, February 23rd.

92. The next day, Sunday, Culombe was questioned for a short time about the New Britain shootings and denied he was involved.

93. Monday, February 25th, Culombe told Lt. Rome he wanted a lawyer but refused to give the name of any specific lawyer. Lt. Rome told him he could have a lawyer if he would tell him whom he wanted him to call.

94. On said Monday afternoon, Culombe was taken to New Britain and booked for Breach of the Peace at New Britain Police Headquarters.

95. On Tuesday evening, February 26th, he was presented in the New Britain Police Court.

96. The case was continued one week by the Court and Culombe was committed to jail under $25,000 bail awaiting trial. (Culombe's Exhibit 6).

97. On Wednesday, February 27th, at about 1:00 p.m. Sgt. Paige and Detective Murphy had a conference with Culombe at State Police Headquarters concerning the New Britain affair and other matters.

98. In the course of the conference Sgt. Paige requested Culombe's assistance in cleaning up this case whereupon Culombe admitted "they were looking for four guns, two of which would be under water and were looking for two men and that he himself had not done any killing."

99. Culombe then agreed to show the officers where the guns were.

100. Culombe then left headquarters with Lt. Rome, Sgt. Paige, Detective Murphy and Detective O'Brien and drove to Culombe's home in a police car.

101. En route, Culombe made a statement which Detective O'Brien took down in shorthand. In the statement Culombe

stated that he and Taborsky had driven to New Britain, that the streets were icy and some trees were down. They passed a gas station and Taborsky instructed him to go in, and he drove in and stopped at the gas pump, and when the attendant came out he, Culombe instructed the attendant to fill the tank. It only took about five or seven gallons to fill it. While the attendant was doing that Taborsky asked if there was a men's room and he was told there was. He went inside the station. After the gas tank was filled Culombe paid the attendant with a two dollar bill. When the attendant went into the station Taborsky pushed him into a room which Culombe thought was an engine room or a boiler room and he heard a shot. Taborsky came back out into the office of the gas station and about that time a customer drove into the gas station and stopped at the pumps. As Culombe was about to service this car Taborsky emerged from the station and said to the customer, "Hey, your buddy wants to see you inside." He put a gun on him and ordered him into the station and into the men's room. Culombe heard two shots. Shortly after Taborsky came out and they left. He was asked by Lt. Rome how much money they realized, and he said it was about $133.00.

102. When the police and Culombe arrived at Culombe's home, Lt. Rome, following Culombe's instructions, removed a medicine chest from the wall in the bathroom and back of the medicine chest between the walls he found a leather brief case containing a gun and two blackjacks.

103. Shortly thereafter Culombe opened the safe in the bedroom and Lt. Rome found a metal box with some parts of a gun, consisting of a spring to a revlover, two revolver grips or handles and the pin which secures them to a revolver and a revolver cylinder pin. (State's Exhibit GG).

104. Culombe, while in the living room with his wife, young daughter and Detective Murphy, told his wife that he had decided to cleanse his conscience and make a clean breast of things and that he had told the police a true story. He also said he might get life but that Taborsky would get the chair and that he didn't want to cause her any further embarrassment. He further told his wife that he was afraid for her, he was afraid Taborsky might attempt to do her harm which was another reason for cooperating with the police.

105. Upon Culombe's direction the officers and Culombe drove to the intersection of Newfield Avenue and Dexter Avenue in Hartford where Culombe said he would show where some guns were located. When they arrived there Culombe pointed out a pond where they would find two guns and that the parts of the gun found in the metal box would fit one of the guns.

106. At Culombe's direction the officers with Culombe drove to Dexter Avenue and Reed Avenue to another swampy area. Culombe told the officers they would find a raincoat in the swamp with the number 16594 in the collar. Detective Murphy found the raincoat and took it out of the water. Culombe identified it as his coat and said it was worn by Taborsky on the night they went to New Britain.

107. The raincoat had blood stains of human origin present on the right sleeve and left lapel.

108. Culombe directed the officers to a brook in the neighborhood which runs under Chandler Street where he stated he discarded some wallets in some brush in that area. A search was made but the wallets were not found.

109. Thereupon they returned to Culombe's home and at the direction of Culombe they found under a cabinet in the basement a mutilated gun in a paper bag.

110. Culombe directed the officers to Borden's Service Station in Hartford where he pointed out a 1949 black Oldsmobile which he stated he previously owned and was used the night they had gone to New Britain.

111. Culombe and the officers returned to State Police Headquarters about 6:10 p.m. where in the presence of Commissioner Kelly and Major Remer, Culombe admitted he had participated in the New Britain crime.

112. After supper, around eight o'clock with Lt. Rome, Detective O'Brien, County Detective Matus and Sgt. Paige, Culombe signed a written statement in which he described the holdup and killings in New Britain on December 15th and another incident. (State's Exhibit Z1 for Ident.)

113. Later Lt. Rome caused to be drawn another statement which was confined solely to the New Britain incident and read

substantially the same as the New Britain incident described in the February 27th statement signed by Culombe. (State's Exhibit Z).

114. On March 3rd at the County Jail, Lt. Rome, in the presence of Detective O'Brien, read to Culombe his signed statement of February 27th of the New Britain incident only, then read the new statement and explained to him the purpose of the new statement was to confine the statement to the New Britain incident alone. Thereupon Culombe signed the statement (State's Exhibit Z).

115. Thursday morning, February 28th, Culombe was served with a bench warrant issued by the Superior Court and was presented that morning before Honorable Abraham S. Bordon, Judge. (State's Exhibit BB).

116. Upon inquiry by the Court, Culombe said he wanted a lawyer but refused to accept the public defender. Culombe stated he would like Attorney McDonough but was unable to pay for his services. The Court then informed Culombe that the Court would see that he had an attorney of his own choosing even though it may be necessary for the state to pay for his services. He informed Culombe the police wished to conduct an investigation into the charges against him and that Culombe had the right if he wished to say nothing or may, if he wished, cooperate with the police. Culombe stated he was willing to cooperate with the police and he would do so voluntarily. Thereupon the Court ordered Culombe released to Commissioner Kelly for the purpose of continuing the investigation.

117. After court, Culombe voluntarily accompanied Lt. Rome and other officers to said Kurp's Gas Station in New Britain where he re-enacted his activities at the gas station on December 15th.

118. Culombe pointed out that the cash register as now located was in a different place than that of December 15th. He said he thought it was near the window the night of December 15th, whereas now it was on a counter near the wall between the boiler room and toilet.

119. The location of the cash register had been changed since the night of December 15th. (State's Exhibit S).

120. At Culombe's request on said February 28th he remained at the State Police Barracks rather than at the jail.

121. On Saturday evening, March 2, 1957, State Policeman, John Fersch was assigned to guard Culombe in his cell at the State Police Barracks.

122. At about 10:00 p.m. while the officer was sitting in a chair outside the cell reading a book, Culombe called to him and said he wished to volunteer some information relative to the events that occurred at Kurp's Gas Station in New Britain on the night of December 15, 1956.

123. Culombe then told the officer substantially the same story contained in his confession (State's Exhibit Z) except that it was he (Culombe) who followed the attendant (Kurpiewski) into the gas station and after he got in there he put his gun on the attendant and forced him into the boiler room where he shot him. After shooting him he turned the body over and took his wallet from the attendant's back pocket.

124. The next day Sunday, March 3rd, Lt. Rome and Officers Moran and Fersch met with Culombe at State Police Headquarters and in answer to Lt. Rome, Culombe said he wished to change his previous statement of February 27. (State's Ex. Z).

125. He then made a written statement wherein he stated that on the evening of December 15th at the gas station after the attendant filled up the tank he (Culombe) told him he was going to the men's room and walked inside the station. The attendant followed him in and just as soon as he got in the door he put his gun on him. He told him this was a stick-up and ordered him to put up his hands. He did not put up his hands, but when he told him to go into the boiler room he did and Culombe followed after him still pointing the gun at him. He told him to get into the right corner of the room but he did not seem to want to do what he told him so Culombe pushed him with his left hand. He hit the wall with his back, then he seemed to come at Culombe and then Culombe pushed him again and the gun went off. He thought the bullet hit him in the head but was not sure. The attendant dropped to the floor in a sitting position and Culombe lifted his body and took a wallet from the rear pocket. He then left the boiler room to search for money. (St. Ex. EE).

126. The remainder of the statment was substantially as told by Culombe on February 27th State's Exhibit Z and Z1 for Identification. (State's Exhibit EE).

127. On February 28, 1957, State Policemen Hickey and Fersch caused a search to be made of the pond or swamp at Newfield and Dexter Avenues in Hartford for the two guns which Culombe said would be found there.

128. Officer Hickey with eight or nine employees of the Farmington Construction Co. were engaged in this work when an employee Paul Dubrosky hooked into a pistol with his potato hook.

129. This pistol, a Russian Nagant Revolver, State's Exhibit MM, was shown to Culombe on February 28 at Newfield and Dexter Avenues and Culombe said it was his gun and was the gun he gave Taborsky the night of the holdup of the gas station in New Britain.

130. On Saturday, March 2nd, about noon, at State Police Headquarters, the pistol (State's Exhibit MM) was shown to Taborsky by Lt. Rome in the presence of Sgt. Paige. Taborsky stated that he recognized the gun as the one loaned to him the night of December 15th. He stated he recognized the gun by the plastic handles, a crack in the handle and the writing on the side.

131. At the trial the witness Lt. Rome pointed out to the Court and jury the crack in the plastic handle of the revolver (State's Exhibit MM) and some writing on the revolver.

132. On March 4, 1957, State Policeman French was conducting a search for the other gun at the swamp at Newfield and Dexter Avenues, the place Culombe stated he had thrown the two guns.

133. During the search a gun was picked up at that location by means of a magnetic crane.

134. The revolver was a .32 calibre Harrington-Richardson, Young American revolver and was incomplete in that the hammer screw, the bearing rod, main spring and grips were missing. (State's Exhibit NN.)

135. The parts of a revolver found in the metal box in Culombe's house (State's Exhibit GG) namely, the two revolver grips, the cylinder pin and the main spring all fit this revolver (State's Exhibit NN.) A witness George Stanhope, a forty-year employee of Harrington-Richardson, Inc., manufacturer of the type of this revolver (State's Exhibit NN) demonstrated in court that said parts of State's Exhibit GG fit the revolver State's Exhibit NN.

136. Said Stanhope testified that it was the Harrington-Richardson's manufacturing procedure to mark the gun number on the inside of the pistol grips and the same number on the pistol frame or gun.

137. At the trial said witness examined and showed to the Court and jury that the number 5755 was marked on the inside of both of the pistol grips (State's Exhibit GG) and that the same number was marked on the gun (State's Exhibit NN) and that it was his opinion that said grips belonged to said gun.

138. The barrel of the revolver (State's Exhibit NN) was in very poor condition and was rusty and pitted. By reason thereof, Captain Chameroy, a ballistic expert was unable to make an identification or match of the test bullets fired through this gun with the bullet taken from the head of Kurpiewski. (State's Exhibit Q).

139. The bullets taken from the head of Daniel Janowski (State's Exhibits R1 and R2) were damaged and by reason thereof Capt. Chameroy in his test was unable to determine whether or not they were fired from the gun. (State's Exhibit MM).

140. The accused Culombe at the trial testified before the jury and failed to deny his guilt. He limited his testimony to facts pertaining to his boyhood activities and mental condition to the age of seventeen.

140A. State psychiatrists examined Taborsky and found him sane, and so responsible for his act.

II.

The defendant offered evidence to prove and claimed that he had proved the following facts:

141. That Arthur Columbe at birth suffered from an injury, or defect at or near the brain.

142. That as a small boy he displayed a lack of understanding of what was reality.

143. That from the beginning in school his scholastic rating showed the lowest and necessitated placing him in special classes.

144. That as a small boy mental examination had established Culombe to be a moron and an idiot.

145. That mental tests show him at the time of the alleged to be a moron and feebleminded.

146. That mental tests show him to have a child-like mind at the time of the crime.

147. That tests show that Culombe cannot read or write and never has been able to read or write.

148. That as a boy and young man he has prior to the date of the alleged crime, been an inmate of mental institutions.

149. That he was at the time of the crime, is now, and always has been a person with a lack of understanding, lack of judgment and a person easily led by others.

150. That the tests of Culombe disclose a mental age of nine to nine and one half years. His intelligence quota is 60; normal I. Q. is 90 to 110; his age is 34 years.

151. He is feeble-minded. He acts purely under stress as to reasoning power. He is of adult age with a child's mind. His judgment is impaired.

152. That as a child he suffered considerable illness, pains in his head, and was not mentally normal.

153. That Arthur Culombe was placed under arrest at about 10:00 p.m., Saturday, February 23, 1957, and placed in a cell at the State Police Barracks.

154. That on Saturday night, February 23, 1957, while in custody of the State Police, Culombe demanded the right to consult an attorney, and on several occasions prior to making

a statement, demanded such right but he was not permitted to do so. Before giving statements as alleged, Culombe demanded the presence of State's Attorney Bill or County Detective Riordan but this was not permitted.

155. That Culombe was taken before the Superior Court and presented at a hearing before the Honorable Judge Abraham S. Bordon on the Thursday morning, February 28, 1957, following his arrest.

156. That Culombe was not provided with counsel prior to the hearing. At this hearing remanding him to the police, he was not represented by any counsel.

157. That Lt. Rome refused to allow Culombe to contact a lawyer on Saturday night when he was told he was being locked up.

158. That on Monday afternoon, February 25, 1957, Culombe was taken to New Britain to the Police Station and there charged with a crime, the nature of which he was not told.

159. That after being arraigned in the court at New Britain, where he was unable to see or hear the proceedings, Culombe was not told, in court or out, what crime he was charged with or the bond, if any, set by the court.

160. That because of treatment accorded him at the State Police Barracks, Culombe began to feel beaten and depressed, and sobbed in the presence of Sgt. Paige, with no will to resist the pressures of the police feeling that it was hopeless to resist further.

161. That at the arraignment before Judge Bordon, Culombe was in a dejected, defeated condition because of the actions of the police in blocking his attempt to obtain counsel, to contact friends and relatives, and great physical, mental and verbal abuse.

162. That the State Police on numerous occasions prior to the giving of statements, had brought Culombe's wife and young children to the police barracks where Culombe could see and hear them while he was being questioned. That the presence of Culombe's wife and children re-acted to the extent of breaking Culombe's will to resist the efforts of the police to obtain statements from him.

163. That as a result of the police treatment, Culombe was reduced to a state where he agreed to give the police a statement so that they would stop bothering his wife and young children.

164. That as a result of the treatment by the police, Culombe's power of resistance was completely gone and he gave the police any statements they desired.

165. That Culombe was held in custody by the State Police from Saturday, February 23, 1957, to Wednesday, February 27, 1957, undergoing constant questioning both night and day before he gave a statement.

166. That on Tuesday night, February 26, 1957, while undergoing questioning, Culombe had seen his wife and children at the police barracks.

167. That the effect of seeing his wife and children the night before was such that Culombe sobbed and said to State Police Sergeant Donald Paige, "How low can they get?"

168. On Tuesday night, February 26, 1957, Culombe was under a court order, removed to the county jail.

169. On Wednesday, February 27, 1957, he was wrongfully taken by the State Police from the County Jail to the State Police Barracks where the questioning was resumed and continued when statements were obtained.

170. That the statements, or confession so-called extracted from Culombe were obtained by psychological pressure and coercion, by physical and verbal abuse, and threats to himself and his family, and by being deprived of conferences or aid from friends, family or an attorney.

171. That courts of criminal jurisdiction were in session at the City of Hartford, and the City of New Britain between the times of Culombe's arrest on February 23, 1957, and the time of his so-called confession and there was ample opportunity to present Culombe before a court of proper jurisdiction and safeguard his rights, but this was not done with the exception of the Police Court of the City of New Britain on February 26, 1957, and whose order concerning custody was violated prior to obtaining of the statements from Culombe.

III.

The defendant requested the Court, in writing, to charge as follows, but the Court refused to grant such requests:

172. "If the accused's preception of the consequences and effects (of his acts) was only such as is common to children of tender years he ought to be acquitted."

173. "To be responsible for a crime, a man must have the capacity and understanding of a normal child of at least fourteen years.

174. "A killing by one who for any cause at the time the act was committed was incapable of conceiving and carrying into execution a deliberate plan to kill or was mentally incapable of intent or premeditation or who was beyond the power of self control at the time lacks the necessary elements of murder in the first degree.

175. "Murder is an unlawful killing, without legal justification, excuse or circumstances that amount to legal extenuation. Such a killing is murder in the second degree.

176. "The law humanely absolves from responsibility a man whose mental condition does not reach the legal standards of sanity and the law as clearly as it can defines this legal standard, (as follows): To be the subject of punishment an individual must have mind and capacity, reason and understanding enough to enable him to judge of the nature, character and consequence of the act charged against him, that the act is wrong and criminal and that the commission of it will justly and properly expose him to penalty.

177. A verdict of not guilty on the ground of insanity or mental incapacity will subject the accused to such restraint as to prevent his doing injury to the persons or property of others."

But the Court did charge, in part, as follows:

178. "The State must prove guilt beyond a reasonable doubt—that is, by such proof as precludes every reasonable hypothesis except that which it tends to support. It is proof wholly consistent with the defendant's guilt and inconsistent with any other rational conclusion.

This requirement of the law, that in order to convict an accused the State must satisfy you beyond a reasonable doubt of his or their guilt, does not mean that proof must be beyond a possible doubt, and a possible supposition of innocence is a far different thing from a reasonable hypothesis.

In this case, as in all such cases, the accused are presumed to be innocent until he or they are proven guilty. That means that at the moment when the accused were presented for trial here before you, nothing which you knew about his or their past or might surmise or guess about his or their past should be considered by you at all. Their slates were wiped clean at that moment. They stood before you free from guilt, bias, prejudice or burden arising from his or their position as accused. In so far as you are concerned, they were then innocent and they continue to be innocent until such time as the evidence and matters produced here in the orderly conduct of this case satisfy you that he or they are guilty. Up to the moment when you are so satisfied from what has taken place here in court before you that he or they are guilty, so far as you are concerned he or they are innocent of the crimes with which they are charged. This presumption requires that if a piece of evidence offered is capable of two reasonable constructions, one of which is consistent with innocence, it must be given that construction. If you entertain a reasonable doubt between a greater and lesser crime, the accused should have the benefit of that doubt and your verdict should be for the lesser crime.

179. "Now, if you conclude that there have been unlawful killings with no circumstances indicating excuse or justification and no circumstances indicating that they were the result of a transport or passion, then the law is that the killings were with malice. If there exists in the evidence no proof of malice, either expressed or implied, then the crimes must be manslaughter at the most. If, however, there is malice, expressed or implied, then the crime is murder; that is to say, murder in the first or second degree.

It is necessary now to explain to you the distinction between murder in the first degree and murder in the second degree. An unlawful homicide without extenuating circumstances reducing it to manslaughter, would be murder in the second

degree unless the murder falls within one of the classes designated by the statutes of our State as murder in the first degree."

180. "The definition of insanity which I have given you would include a mind which is either so naturally weak or so impaired by disease or otherwise to make its possessor incapable of distinguishing right from wrong. It would not include a mind which, while weak or incapable in some measure, is still sound enough to know right from wrong and to make the essential choice of course, is still sound enough to resist and impulse which its possessor knows will result, if yielded to, in exposing him to just and proper punishment for crime.

The return to this definition for a moment then, two or three things are suggested by it as of vital consequence for the jury to consider and carry in mind in applying it. You will be careful to remember, in the first place, that a man of merely dull or deficient intellect, or abnormal mental quality, is not necessarily irresponsible within the meaning of the law. There are degrees of mental dullness or deficiency or disturbance, and it is only when the condition of mind in any given subject brings him, with reference to the particular act involved, within the strict protection of the definition that I have given to you, that he is to be regarded as irresponsible in the eyes of the law.

It is quite important, ladies and gentlemen of the jury, that you recognize the distinction which I have suggested—so important, indeed, that I shall repeat to you once more the accepted definition of that kind or degree of insanity which absolves one so afflicted from punishment for his otherwise criminal acts. Again, then: To be the subject of punishment one must have mind and capacity, reason and understanding enough to enable him to judge of the nature, character and consequences of the act charged against him, that the act is wrong and criminal, and that the commission of it will justly and properly expose him to penalties. And he is within the law's protection if his mind is so diseased or abnormal as to render him incapable of resisting an impulse to do an otherwise criminal act."

* * *

181. "And if you find that despite what the State may have proved, that the accused do not have the mental capacity, that they are insane within the definition that I have given to you.

then, your foreman should state and you should find that they are guilty on the ground of insanity."

IV.

182. The State offered in evidence photographs of the dead bodies of the two deceased, and over the objection of the defendant, Arthur Culombe, they were admitted as full exhibits, and marked as follows:

State's Exhibit 38 dead body in toilet.

State's Exhibit 105 dead body of man in morgue.

State's Exhibit 101A dead body of man in morgue.

The defendant Culombe claimed that said photographs were gruesome and served no purpose except to inflame the jury against the defendant.

183. The State offered in evidence a photograph of a dead body of one of the decedents, and the photograph as offered by the State was ordered cut out from the whole photograph and received in evidence, being marked State's Exhibit 56.

State's Exhibit 56 was a part of a photograph which was inadmissible among other reasons because the position of the body, and the location of the same was different than as is claimed by the State to have existed at the time of the arrival of the officers, and at the time of the alleged commission of the crime by the defendant.

The defendant Culombe claimed that the cutting of the photograph and the admission of the part known as State's Exhibit 56 was an artificial, untrue portrayal to the jury of the fact, and greatly exaggerated the already existing gruesomeness of the exhibit, serving no purpose except the inflaming of the jury, and causing added prejudice against the defendant, but the Court ruled otherwise.

V.

Hearing on motion for change of venue.

See Finding of BORDON, *J.*

VI.

184. In the voir dire prespective jurors in the panel of talesmen related that they knew of the confessions, read the newspaper stories, listened to radio broadcasts and television newscasts regarding the apprehension of the defendant, of his background and his confession of guilt.

185. The defendant Culombe claimed that jurors were placed on the trial jury who had a preconceived notion of the defendant's guilt from the reading and hearing of the confession he allegedly made.

186. No juror was placed on the trial jury who had a settled prejudice or hostility to the defendant which would require evidence to remove before testimony could be heard and fairly weighed.

187. One juror, George W. Hannan, as a member of a commission of the town of East Hartford, participated in voting for a reward offered by the commission for the capture and conviction of the killers, and allegedly defendant was one.

188. After said juror had been accepted as a member of the jury a motion was made to excuse the said juror for cause, which was denied, and a motion was then made to permit the use of a preempting challenge which was denied.

189. The defendant Culombe claimed that information regarding this juror was not known to the defendant until after he was accepted on the jury.

190. Having heard the evidence in regard to the motion for a change of venue, the Court denied said motion. At the start of the trial itself, before the jury, the motion was renewed and also denied.

VII.

All exhibits received and marked in evidence in the above entitled case may be used in argument before the Supreme Court of Errors without printing.

SHANNON, *J.*

Filed February 18, 1958.

FINDING.

I.

In respect to the hearing on the defense motions for a Change of Venue which was held prior to the trial, the following facts are found.

1. Prior to the apprehension of the defendants, there had been a number of atrocious holdup killings which created fear and panic among many businessmen, particularly gas station operators, package store owners, and operators of small shops in outlying places in the State.

2. The newspapers, radio and television networks of the entire State published and broadcast these incidents and dramatized their stories by calling the defendants "mad killers" and by showing pictures of the victims and of places wherein alleged killings occurred.

3. Many witnesses testified to aroused public opinion but no credible evidence was presented that such opinion had crystallized into unwavering conclusions precluding a fair trial.

4. There was no evidence of expressed or vigorous public sentiment that such a trial could not be had in Hartford County.

5. Few of the witnesses could be regarded as competent to interpret public opinion accurately, and most of them testified that mass discussions among citizens of the county indicated opinions that a fair trial could be had within the county.

6. There was no evidence of riots, race prejudice in Hartford County, nor any evidence that mob violence, group violence or individual violence had been threatened or committed against the defendants.

7. Proof that derogatory articles were published in some of the cities of the county, and publicized throughout the county by radio and television is not proof that a fair trial could not be held within the county, or that the county as a whole was so prejudiced that a fair trial could not be had.

II.

The following conclusions have been reached:

8. A jury could be selected in Hartford County that would be fair and impartial and that the defendants would be assured of a fair trial.

9. The defendants have failed to establish the burden of proof of the claims alleged in their motion.

All exhibits are hereby made a part of the record on appeal and may be used in the Supreme Court of Errors without being printed.

BORDON, *J.*

Filed January 30, 1958.

AMENDMENT TO FINDING.

The finding is amended by striking out Paragraph 140A and substituting therefor, the following:

140A. State Psychiatrists examined Culombe and found him sane, and so responsible for his act.

The finding is further amended by adding thereto the following:

IIA.

The accused offered evidence claiming to prove he was insane on December 15, 1956 and the State then offered evidence to prove and claims to have proved the following:

1. Dr. Harold A. Bancroft, a doctor of medicine specializing in psychiatry for more than thirty years with many years of Court experience as an expert witness in criminal matters, examined Arthur Culombe on March 2, 1957.

2. Dr. Bancroft was of the opinion that Culombe was a mental defective of the grade of high moron, he knew right from wrong and was not psychotic, he had the mind, the capacity, reason and understanding of the act charged against him, he knew that the act was wrong and criminal and that the commission thereof would properly expose him to penalty, and that his mind was not so diseased or abnormal that he could not resist an impulse to commit a criminal act.

3. Dr. Bancroft was of the opinion that Culombe, a thirty-three year old man could not be classified as similar to a mental capacity age group of nine to nine and one-half years because he has increased in physical size, has had many years experience in the world, has come in contact with many things as a man, has been married, living with his wife, working, supporting his children and paying his bills.

4. Culombe is not easily led except by perhaps intimidation. He is not a fearful man but is more suggestible than a person of average intelligence.

5. Dr. Chester A. Waterman, a psychiatrist who had eighteen years experience in the New York State Hospital Service and seventeen years in the Connecticut State Hospital Service and has practiced neuro-psychiatry for many years, examined Culombe on March 2, 1957.

6. At the examination Culombe was cooperative but rather indifferent. His stream of thought showed no disturbance, his replies were coherent and well constructed.

7. Dr. Waterman was of the opinion that Culombe is a high moron, had a thorough appreciation of the act committed in this case, he knew it was wrong and would subject him to a penalty and that his mind was not so diseased or so defective as to render him incapable of resisting an impulse to do an otherwise criminal act.

8. Dr. Robert C. Doherty, psychiatrist, a witness for the accused Culombe, testified that in his opinion Culombe was not psychotic nor insane.

II-B.

During the trial, the Court heard evidence concerning the admissibility of certain alleged admissions and confessions made by the accused. In respect thereto the following facts were found:

1. During the investigation of the deaths of Kurpiewski and Janowski, State Police Officers Moran and Griffin, on February 23, 1957, at about 2:10 p.m. observed Taborsky and Culombe leaving the home of Taborsky's mother on Park Terrace, Hartford. The officers approached them just as they were entering a parked car in front of the Taborsky home when Officer

Moran told Taborsky that Lt. Rome wanted to talk to him at State Police Headquarters. Taborsky stated he was willing to go.

2. Taborsky, with Culombe driving, followed the officers' car to State Police Headquarters on Washington Street, Hartford, where Culombe stopped the car. Taborsky left the car and walked into Headquarters with the police while Culombe drove off.

3. At about 2:30 o'clock the same afternoon Sgt. Paige and Officer Reimer of the State Police went to Culombe's home at 20 Coleman Drive, Hartford, to bring him back to the State Police Barracks. His wife reported he was in the toilet and during a five minute wait the officers could hear the sound of metallic noises coming from the toilet.

4. Culombe was then taken to State Police Headquarters where Lt. Rome talked to both Taborsky and Culombe. Both agreed to accompany officers to different places for purposes of identification.

5. Taborsky and Culombe then accompanied Sgt. Paige and two other officers to the Towns of Coventry and Rocky Hill. They had supper then returned to the State Police Barracks.

6. Upon return to the barracks Culombe told Sgt. Paige he was a gun collector and he had seven or eight guns at his house which he agreed to turn over to the police.

7. Sgt. Paige and Officer Carlberg went with Culombe to his home.

8. Culombe left the officers in the living room, went to the toilet, then to a bedroom where the officers found him with two guns, a .25 and a .38. They found a .25 clip of cartridges with bullets in the drawer he had first closed. In a small safe they found six guns and three boxes of ammunition. (State Exhibits X, Y).

9. Thereupon Culombe was returned to the barracks and Sgt. Paige talked to Culombe for a short while, then discontinued the investigation. Lt. Rome talked with Culombe about two hours that evening then Culombe was locked up for the night at the barracks.

10. During the investigation Culombe was questioned about the New Britain affair of December 15, as well as other matters.

11. Lt. Rome placed Culombe in custody at 10:00 o'clock Saturday evening, February 23rd.

12. The next day, Sunday, Culombe was questioned for a short time about the New Britain shootings and denied he was involved.

13. Monday, February 25th, Culombe told Lt. Rome he wanted a lawyer but refused to give the name of any specific lawyer. Lt. Rome told him he could have a lawyer if he would tell him whom he wanted him to call.

14. On said Monday afternoon, Culombe was taken to New Britain and booked for Breach of Peace at New Britain Police Headquarters.

15. On Tuesday morning, February 26th, he was presented in the New Britain Police Court.

16. The case was continued one week by the Court and Culombe was committed to Jail under $25,000.00 bail awaiting trial. (Culombe's Ex. 6).

17. On Wednesday, February 27, at about 1:00 p.m. Sgt. Paige and Detective Murphy had a conference with Culombe at State Police Headquarters concerning the New Britain affair and other matters.

18. In the course of the conference Sgt. Paige requested Culombe's assistance in cleaning up this case, whereupon Culombe admitted "they were looking for four guns, two of which would be under water and were looking for two men and that he himself had not done any killing."

19. Culombe then agreed to show the officers where the guns were.

20. Culombe then left headquarters with Lt. Rome, Sgt. Paige, Detective Murphy and Detective O'Brien and drove to Culombe's home in a police car.

21. En route, Culombe made a statement which Detective O'Brien took down in shorthand. In the statement Culombe stat-

ed that he and Taborsky had driven to New Britain, that the streets were icy and some trees were down. They passed a gas station and Taborsky instructed him to go in, and he drove in and stopped at the gas pumps and when the attendant came out he, Culombe instructed the attendant to fill the tank. It only took about five or seven gallons to fill it. While the attendant was doing that Taborsky asked if there was a men's room and he was told there was. He went inside the station. After the gas tank was filled Culombe paid the attendant with a two dollar bill. When the attendant went into the gas station Taborsky pushed him into a room which he thought was an engine room or a boiler room and he heard a shot. Taborsky came back out into the office of the gas station and about that time a customer drove into the gas station and stopped at the pumps. As Culombe was about to service this car Taborsky emerged from the station and said to the customer, "Hey, your buddy wants to see you inside." He put the gun on him and ordered him into the station and into the men's room. Culombe heard two shots. Shortly after Taborsky came out and they left. He was asked by Lt. Rome how much money they realized, and he said that it was about $133.00.

22. When the police and Culombe arrived at Culombe's home Lt. Rome, followed Culombe's instructions, removed a medicine chest from the wall in the bathroom and back of the medicine chest between the walls he found a leather brief case containing a gun and two blackjacks.

23. Shortly thereafter Culombe opened the safe in the bedroom and Lt. Rome found a metal box with some parts of a gun.

24. At Culombe's direction the officers with Culombe drove to Dexter Avenue and Reed Avenue to another swampy area. Culombe told the officers they would find a raincoat in the swamp with the number 16594 in the collar. Detective Murphy found the raincoat and took it out of the water. Culombe identified it as his coat and said it was worn by Taborsky on the night they went to New Britain.

25. The raincoat (St. Ex. FF) had blood stains of human origin present on the right sleeve and left lapel.

26. Culombe while in the living room with his wife, young daughter and Detective Murphy, told his wife that he had decided to cleanse his conscious and make a clean breast of things

and that he had told the police a true story. He also said that he might get life but that Taborsky would get the chair and that he didn't want to cause her any further embarrassment. He further told his wife that he was afraid for her, he was afraid Taborsky might attempt to do her harm which was another reason for cooperating with the police.

27. Upon Culombe's direction the officers and Culombe drove to the intersection of Newfield Avenue and Dexter Avenue in Hartford where Culombe said he would show where some guns were located. When they arrived there Culombe pointed out a pond where they would find two guns and that the parts of the gun found in the metal box would fit one of the guns.

28. Culombe directed the officers to a brook which runs under Chandler Street where he stated he discarded some wallets in some brush in that area. A search was made but the wallets were not found.

29. Culombe directed the officers to Bordon's Service Station in Hartford where he pointed out a 1949 black Oldsmobile which he stated he previously owned and was used the night they had gone to New Britain.

30. Culombe and the officers returned to State Police Headquarters about 6:10 p.m. where, in the presence of Commissioner Kelly and Major Remer, Culombe admitted he had participated in the New Britain crime.

31. After supper, around 8:00 o'clock with Lt. Rome, Detective O'Brien, County Detective Matus and Sgt. Paige, Culombe signed a written statement in which he described the holdup and killings in New Britain on December 15, 1956, and another incident. (State Ex. X1 for Ident.).

32. Later Lt. Rome caused to be drawn another statement which was confined solely to the New Britain incident and read substantially the same as the New Britain incident described in the February 27th statement signed by Culombe. (State Ex. Z).

33. On March 3rd at the County Jail, Lt. Rome, in the presence of Detective O'Brien read to Culombe his signed statement of February 27th of the New Britain incident only (St. Ex. Z1 for Ident.), then read the new statement (St. Ex. Z) and

explained to him the purpose of the new statement was to confine the statement to the New Britain incident alone. Thereupon Culombe signed the statement. (State's Ex. Z).

34. Culombe saw his wife at their house the evening of February 23, and at least on two occasions at the State Police Barracks before the confession (St. Ex. Z1 for Ident.) was made. Culombe made no request of her to obtain a lawyer.

35. The verbal confession and the written confession of Culombe (State's Ex. Z) were made voluntarily and without force, compulsion, fear or promise.

36. Thursday morning, February 28th, Culombe was served with a bench warrant issued by the Superior Court and was presented that morning before Honorable Abraham S. Bordon, Judge. (St. Ex. BB for Ident.).

37. Upon inquiry by the Court, Culombe said he wanted a lawyer but refused to accept the Public Defender. Culombe stated he would like Attorney McDonough but was unable to pay for his services. The Court then informed Culombe that the Court would see that he had an attorney of his own choosing even though it may be necessary for the state to pay for his services. He informed Culombe that the police wished to conduct an investigation into the charges against him and that Culombe had the right if he wished to say nothing or may, if he wished, cooperate with the police. Culombe stated he was willing to cooperate with the police and he would do so voluntarily. Thereupon the Court ordered Culombe released to Commissioner Kelly for the purpose of continuing the investigation. (St. Ex. BB for Ident.).

38. After court Culombe voluntarily accompanied Lt. Rome and other officers to said Kurp's Gas Station in New Britain where he re-enacted his activities at the gas station on December 15.

39. At Culombe's request on said February 28th he remained at the State Police Barracks rather than at the jail.

40. On Saturday evening, March 2, 1957, State Policeman John Fersch was assigned to guard Culombe in his cell at the State Police Barracks.

41. At about 10:00 p.m. while the officer was sitting in a chair outside the cell reading a book, Culombe called to him and said he wished to volunteer some information relative to the events that occurred at Kurpi's Gas Station in New Britain on the night of December 15, 1956.

42. Culombe then told the officers substantially the same story contained in his confession (St. Ex. Z for Ident.), except that it was he (Culombe) who followed the attendant (Kurpiewski) into the gas station and after he got in there, he put his gun on the attendant and forced him into the boiler room where he shot him. After shooting him he turned the body over and took his wallet from the attendant's back pocket.

43. The next day, Sunday, March 3rd, Lt. Rome and Officers Moran and Fersch met with Culombe at State Police Headquarters and in answer to Lt. Rome, Culombe said he wished to change his previous statement of February 27th. (St. Ex. Z for Ident.).

44. He then made a written statement wherein he stated that on the evening of December 15th at the gas station after the attendant filled up the tank he (Culombe) told him he was going to the men's room and walked inside the station. The attendant followed him in and just as soon as he got in the door he put his gun on him. He did not put up his hands, but when he told him to go into the boiler room, he did, and Culombe followed after him still pointing the gun at him. He told him to get into the right corner of the room but he did not seem to want to do what he told him, so Culombe pushed him with his left hand. He hit the wall with his back, then he seemed to come at Culombe and then Culombe pushed him again and the gun went off. He thought the bullet hit him in the head but was not sure. He dropped to the floor in a sitting position and Culombe lifted his body and took a wallet from his rear pocket. He then left the boiler room to search for money.

45. The verbal confession to Officer Fersch and the written confession of Culombe (St. Ex. EE for Ident.) were made voluntarily and without force, compusion, fear or promise.

46. The written statement of Culombe made on March 3rd wherein State's Exhibit Z was submitted for State's Exhibit Z1 for Identification in order to confine the statement to the New

Britain incident alone, was signed voluntarily by Culombe and without force, compulsion, fear or promise.

47. Mrs. Culombe, wife of the accused Culombe, visited Culombe at State Police Headquarters on two or three occasions between February 23rd and February 27th. She made these visits voluntarily and under no compulsion by the police. Mrs. Murtha a State policewoman, accompanied Mrs. Culombe at all times and treated her very fairly.

48. On these visits Mrs. Culombe took the children with her because she did not want to leave them at home alone.

49. The police at no time, either in or out of the presence of Culombe, mistreated Mrs. Culombe or her children either by word or action.

50. Nothing was said or done by the police to Mrs. Culombe or the children to cause anxiety on the part of Culombe or to reduce his resistance or will power, or to influence him to confess.

SHANNON, *J.*

Filed March 10, 1958.

ASSIGNMENT OF ERRORS.

A.

ERRORS APPARENT ON THE FACE OF THE RECORD.

The Court erred:

1. In denying the motions made by the defendant, Arthur Culombe, for a change of venue where the evidence disclosed a vast amount of publicity by newspapers, radio and television, which created in prospective jurors a deep-seated hostility toward the said defendant, making it impossible for him to obtain a trial by a fair and impartial jury, in violation of his constitutional rights and privileges (U. S. Constitution, Articles V, VI, XIV, Sec. 1, of the Amendments; Conn. Constitution, Article I, Sec. 9).

2. In denying a motion made by the defendant, Arthur Culombe, to dismiss the criminal action against him because of the State's failure to produce the evidence of two witnesses or evidence equivalent to that of two witnesses.

3. In denying a motion to set aside the verdict of the jury as contrary to and inconsistent with the evidence produced.

4. In denying a motion to dismiss the action against the defendant, Arthur Culombe, where the only evidence implicating the defendant, Culombe, was his own admissions and confession.

5. In permitting the introduction of Taborsky's confession and other statements made by Taborsky which were prejudicial to the cause of Culombe, notwithstanding the Court's request that the jury disregard same as to Culombe.

6. In refusing to excuse the juror, George W. Hannon, who participated as a member of a public authority in voting for a reward for the capture and conviction of the persons responsible for the killing in East Hartford, when it was shown that the defendant, Culombe, was charged with such killing and newspapers had reported a confession by him.

7. In failing to furnish counsel to Culombe at his arraignment prior to any proceedings which resulted in his being remanded to police custody in violation of his constitutional rights and privileges, as hereinafter set forth.

8. In remanding Culombe to the custody of police and in holding a hearing thereon without furnishing him with counsel, as he had requested, in violation of his constitutional rights and privileges, as hereinafter set forth.

9. In not granting the motion to set aside the verdict where there was no proof of a robbery as having been committed, as set forth in the indictment during which the killings of the victims allegedly occurred.

10. In permitting the introduction into evidence of the alleged confessions of Culombe after it was shown that the same was obtained by coercion and duress of a psychological nature.

B.

ERRORS IN THE HEARING ON DEFENSE MOTIONS FOR A CHANGE OF VENUE.

The Court erred:

1. In refusing to find the material facts set forth in Part V, Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 of

the defendant Arthur Culombe's Draft Finding which were undisputed or admitted.

2. In finding facts set forth in Part I, Paragraphs 3, 4, 5 and 7 of the Finding without proper basis in evidence produced.

3. In reaching the conclusions stated in Part II, Paragraphs 8 and 9 of the Finding when the facts set forth in the Finding and the testimony of prospective jurors in the course of the voir dire do not support them.

C.

ERRORS IN THE CONDUCT OF THE TRIAL.

The Court erred:

1. In denying the defendant, Arthur Culombe's motion to set aside the verdict of the jury where the same was contrary to and inconsistent with the evidence produced.

2. In permitting the introduction into evidence of the alleged confessions of the defendant, Arthur Culombe, after it was shown the same were obtained by coercion and duress of a psychological nature and in violation of his Constitutional rights and privileges (U.S. Constitution, Articles V and XIV, Sec. 1, of the Amendments).

3. In admitting into evidence those portions of the confession of the co-defendant, Taborsky, which implicated the defendant, Arthur Culombe, notwithstanding the Court's instruction to the jury to disregard this matter as to the defendant, Culombe.

4. In refusing to grant a motion to dismiss, made by the defendant, Arthur Culombe, because of the State's failure to produce the evidence of two witnesses or evidence equivalent of two witnesses.

5. In refusing to excuse jurors who stated on the examination that they had a pre-conceived notion of the guilt of the defendant, Arthur Culombe, in violation of his lawful and constitutional rights and privileges (U. S. Constitution, Articles VI, XIV, Sec. 1, of the Amendments; Connecticut Constitution, Article I, Sec. 9).

6. In refusing to excuse the juror, George W. Hannon, who participated, as a member of a public authority, in voting for a reward for the capture and conviction of the persons responsible for a killing in East Hartford, when it was shown that the defendant, Culombe, was charged with such killing and newspapers had reported a confession by him.

7. In not furnishing counsel to Culombe at his arraignment prior to any proceedings which resulted in his being remanded to police custody in violation of his constitutional rights and privileges (U. S. Constitution, Articles VI, XIV, Sec. 1, of the Amendments.)

8. In remanding Culombe to the custody of police, and in holding a hearing thereon without first furnishing him with counsel, as he had requested, in violation of his constitutional rights and privileges (U. S. Constitution, Articles VI, XIV, Sec. 1, of the Amendments).

9. In refusing to grant a motion to set aside the verdict where there was no proof of a robbery as having been committed, as set forth in the indictment, during which the killings of the victims allegedly occurred.

10. In refusing to charge the jury, as requested in Part III, Paragraphs 172, 173, 174, 175 and 177 of the Finding.

11. In refusing to find the material facts as set forth in Paragraphs 23, 26, 27, 32, 33, 34, 35, 36, 37, 38, 39 and 40 of Part First of the Draft Finding of the defendant Culombe.

12. In charging the jury, as appears in Part III, Paragraph 180 of the Finding, more particularly in regard to the McNaghten and Irresistible Impulse Tests of criminal responsibility which Tests are contrary to present medical, scientific and psychological insight and knowledge, and are vague, illogical, unreasonable and obsolete.

13. In overruling the claims of law, as stated in Part IV, Paragraphs 182 and 183 of the Finding.

14. In failing or refusing to reach the conclusion that the alleged confessions were obtained by coercion, under compulsion and duress of a psychological nature, and were not made voluntarily, but obtained and made in violation of his constitutional

rights and privileges (U. S. Constitution, Article XIV, Sec. 1, of the Amendments).

15. In reaching the conclusion that the verbal confessions and the written confessions of Culombe were made voluntarily and without force, compulsion, fear or promise, as set forth in Part IIB, Paragraphs 35, 45 and 46 of the amended Finding.

16. In finding the facts set forth in Paragraphs 1, 2, 3, 4, 5, 6, 7, 8 of Part IIA of the amended Finding, without a sufficient basis in evidence.

17. In finding the facts set forth in Paragraphs 33, 34, 35, 36, 41, 49, 50, 51, 52, 53, 54, 55, 57, 64, 65, 76, 77, 84, 93, 97, 101, 104, 105, 106, 108, 109, 110, 111, 112, 113, 114, 117, 120, 122, 123, 124, 125, 140 and 140A of the Finding without a proper or sufficient basis in law and evidence.

18. In finding the facts set forth in Paragraphs 2, 3, 4, 5, 6, 13, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35, 38, 39, 41, 42, 43, 44, 45, 46, 47, 48, 49 and 50 of Part IIB of the amended Finding.

19. In charging the jury as follows:

"You have heard the testimony of the doctors, whom I may call the expert witnesses, given upon the result of personal examination. As to their personal examination, they examined the defendants both physically and mentally. The opinion of persons learned in medicine, having expert skill, based upon a personal physical examination, is worthy of your consideration. As I understand the testimony of the doctors in this case, their opinions were based not merely upon a physical examination and records which you have before you, but also upon mental examinations, largely upon the answers to questions given by the accused themselves. As a result of these examinations, the doctors offered here have judged the accused as they have testified.

"It is but right for me to remind you that you should consider the base of that opinion, and if you find that they base it wholly or partially upon statements made to them by the accused, you should then consider whether the statements from the accused were to be believed or not. You are to remember that the accused were not upon oath when they made these

statements to these doctors; that they were about to be put on trial for their lives; that they were vitally interested in the outcome of these cases, and that interest you ought to take into consideration in deciding what credit you may give to the statements of the accused; that is, to decide whether these doctors received from these accused or from the accused with whom they talked, correct and true statements of fact. If they did, if the facts stated to them were true, then you might consider their opinion as of value. If you come to the conclusion that the answers were made in view of the trial, that you ought not to believe them—that you give them little weight, then you might consider that the opinion of the doctors, based upon such information, was of no great value. That is a matter I wish to ask you should carefully consider when dealing with the opinions of the experts. And you are to remember that these experts are not deciding this question for you. They are merely giving an opinion to you to help you to decide, for it is a question which you must decide and not they. It is for you to determine what weight, if any, you will give to their testimony." (Charge to the jury, pp. 33-34).

Respectfully submitted,

Defendant, ARTHUR CULOMBE,

By ALEXANDER A. GOLDFARB,
His Attorney and
Special Public Defender.

Filed September 27, 1958.

No changes or additions.

BORDON, *J.*

Corrections refused 10/6/58.

SHANNON, *J.*

SUPREME COURT OF ERRORS, HARTFORD COUNTY. } *Clerk's Office.*

The above and foregoing is a true copy of the record in said case to be used in the trial in the Supreme Court of Errors.

Attest. RAYMOND G. CALNEN,
Clerk.

55 In the Supreme Court of Errors of the State of Connecticut

STATE OF CONNECTICUT
v.
JOSEPH L. TABORSKY

STATE OF CONNECTICUT
v.
ARTHUR CULOMBE

BALDWIN, C.J., KING, MURPHY, MELLITZ and SHEA, Js.

Each of the defendants confessed to participation in the holdup of a gasoline station and the slaying of the proprietor and a customer. The jury were adequately instructed that each confession was to be considered only in the case against the defendant who had made it. In each confession, most of the material facts were the same as in the other, and
56 each confession, if legally corroborated, was sufficient to convict the one making it of first degree murder. The evidence introduced at the joint trial disclosed no facts incriminating either defendant which would not have been before the jury had he been tried separately and only his own confession admitted. *Held* that there was no abuse of discretion by the trial court in denying the defendant T's motion for a separate trial.

The basis of the defendants' motions for a change of venue was the nature of the publicity given the series of holdup killings which preceded the apprehension of the defendants. While there was evidence that the public were aroused against the defendants after they confessed, the court could conclude, as it did, that the defendants failed to prove that a fair trial could not be had in the county where the crimes were committed. The court did not abuse its discretion in denying a change of venue.

An accused is entitled to counsel to aid him in his defense, not to prevent voluntary action on his part. A denial of counsel for any part of the pretrial proceedings may violate

due process if the accused is prejudiced thereby. Where the accused claims that he was illegally deprived of counsel between his arrest and arraignment, the question is whether there was an unreasonable delay in his obtaining counsel and whether, as a result, the opportunity for a fair trial was denied him. In the present instance, it did not appear that counsel were denied the defendants or that any failure to furnish them with counsel before they were first brought before the Superior Court on a bench warrant charging murder denied them the opportunity for a fair trial.

A confession is not admissible in evidence unless it is voluntary. The question whether it is voluntary is one of fact to be determined by the trial court in the exercise of a legal discretion, usually after a preliminary hearing in the absence of the jury. The claim of the defendant C that the police had used his wife and children to force a confession from him and the claims of both defendants that they were being illegally detained when their confessions were made were not substantiated. Furthermore, since neither defendant thought his detention to be illegal, no irregularity in the detention could have contributed to the inducement of the confessions. The court did not abuse its discretion in admitting the confessions in evidence.

If the testimony of one or more witnesses is sufficient to establish some of the essential facts of the capital crime, and that of another witness or other witnesses is sufficient to establish the remaining essential facts, the two-witness statute (§ 54–83) is satisfied. It was satisfied here. Apart from the confession of either defendant, there was ample evi-
57 dence that the capital crimes charged had been committed. There was, as well, evidence corroborating the essential details of the confessions.

Upon the evidence, the jury could find that each defendant had the requisite capacity to commit the crimes and was guilty beyond a reasonable doubt.

Since the court could find upon the voir dire that certain veniremen, who admitted having opinions on the guilt of the defendants because of the publicity given the crimes, would disregard those opinions and decide the cases upon the evi-

dence, the refusal of the court to excuse the veniremen for cause could not be disturbed. Nor was it an abuse of discretion to refuse to excuse a venireman who had participated as a town official in the offer of a reward for the apprehension of the perpetrators of another holdup killing with which the defendants' names were connected.

It was not error to charge that in weighing the opinions of the experts on the defendants' capacity to commit the crimes, the jury were to take into consideration the fact that those opinions might be based, in part at least, on unsworn statements made to the experts by the defendants themselves.

The court did not abuse its discretion in admitting as an exhibit a photograph of one of the victims as he lay dead on a stretcher.

Argued January 8—decided February 16, 1960

Indictments charging the defendants with murders in the first degree, committed in the perpetration of robberies, brought to the Superior Court in Hartford County and tried to the jury before Shannon, J.; verdicts and judgments of guilty and appeal by the defendants. No error.

Wallace R. Burke, special public defender, with whom were John J. Daly, assistant to the special public defender, and Maxwell Heiman, for the appellant (defendant) in the first case.

Alexander A. Goldfarb, special public defender, for the appellant (defendent) in the second case.

John D. LaBelle, state's attorney, for the appellee
58 (state) in each case; with him, on the brief in the second case, were J. Read Murphy and George D. Stoughton, assistant state's attorneys.

Opinion

February 16, 1960

BALDWIN, C.J. The defendants, Joseph L. Taborsky and Arthur Culombe, were convicted of murder in the first degree in a joint trial to a jury in the Superior Court. They were indicted under what is now § 53-9 of the General Statutes for

the killing of Edward J. Kurpiewski and Daniel J. Janowski, committed during a holdup at a gasoline station in New Britain on December 15, 1956. The defendants, in their appeals, have assigned error in the rulings of the court preliminary to the trial, in the admission of their confessions and other evidence during the trial, in the charge, and in the denial of their motions to set aside the verdicts of guilty.

On December 15, 1956, the bodies of Edward J. Kurpiewski and Daniel J. Janowski were found in Kurp's gasoline station on Stanley Street in New Britain. An autopsy revealed that both had died from bullet wounds in the head. In the afternoon of February 23, 1957, the defendants were taken into custody by the state police. Culombe, on February 27, and Taborsky, on March 1, confessed to robberies at the gasoline station and to the two homicides. Each confession corroborated the other in the main. A general summary of the facts contained in them follows: About 6 p.m. on Saturday, December 15, 1956, the defendants drove in Culombe's Oldsmobile from Hartford to New Britain. They were armed and they intended to hold up a gasoline station. They stopped at Kurp's station. The proprietor, Kurpiewski, serviced their car. Taborsky left the car to go, as he said, to the toilet in the station. After Culombe had paid for the gasoline, he
59 ordered Kurpiewski, at gun point, in to the boiler room of the station, shot him, and took his wallet. Meanwhile, Taborsky was searching the main office of the station for money. Culombe joined him and they found and took money from the cash register and the desk. During this search Janowski, who had his eighteen-month-old daughter with him, drove up and stopped by the pumps. Taborsky and Culombe waited in the station, but when Janowski did not drive away they came out. Culombe pretended to service Janowski's car. Taborsky pointed a gun at Janowski, took his wallet and ordered him into the station and then into the toilet room, where Taborsky shot him twice in the left side of the head above the ear. Taborsky and Culombe then drove to Culombe's house in Hartford and divided the money. Taborsky returned later that evening to his home in Brooklyn, New York.

Before the trial began, Taborsky filed a motion for a separate trial which the court denied. This action is assigned as error. Taborsky claimed that the defense to be offered by Culombe would be antagonistic to his defense and that Culombe's confession, if admitted in evidence, would be prejudicial to him. Whether separate trials should be allowed rests in the sound discretion of the trial court. State v. McCarthy, 133 Conn. 171, 174, 49 A. 2d 594; State v. Luria, 100 Conn. 207, 209, 123 A. 378; State v. Klein, 97 Conn. 321, 323, 116 A. 596; State v. Castelli, 92 Conn. 58, 62, 101 A. 476; State v. Brauneis, 84 Conn. 222, 226, 79 A. 70. In each confession, most of the material facts were substantially the same as in the other. See People v. Doran, 246 N.Y. 409, 425, 159 N.E. 379; People v. Fisher, 340 Ill. 216, 227, 172 N.E. 743; State v. Rios, 17 N.J. 572, 585, 112 A. 2d 247; Kirkendoll v. State, 198 Tenn. 497,
60 522, 281 S.W. 2d 243; Opper v. United States, 348 U.S. 84, 95, 75 S. Ct. 158, 99 L. Ed. 101. Each confession, if legally corroborated, was sufficient to convict the defendant making it of murder in the first degree. An examination of all the testimony in the joint appendix to the briefs discloses no material fact incriminating either of the defendants which would not have been before the jury if he had been tried separately and only his own confession admitted. See State v. Castelli, supra, 64. The court was meticulous in cautioning the jury many times during the trial, especially when the counsel for either Taborsky or Culombe made objection, that each confession was to be considered by the jury only in the state's case against the defendant who had made it. See State v. McCarthy, supra, 175; State v. Castelli, supra, 63. This caution was repeated in the charge to the jury. Upon the whole record, it does not appear that any injustice was done to Taborsky by the denial of his motion for a separate trial.

Both defendants moved for a change of venue. General Statutes § 54–78. Prior to their apprehension by the police, there had been a series of holdup killings which had practicularly aroused the fears of the operators of gasoline stations, package stores and small shops. Newspapers and radio and television networks throughout the state published and broadcast news of these crimes and referred to those perpetrating

them as "mad killers." The court conducted a lengthy hearing on this feature of the cases. Editors of newspapers, radio broadcasters and many others testified, and a number of newspaper files were received as exhibits. While some of the witnesses stated that the public were aroused against the defendants after they had confessed, by far the greater number
61 testified to facts from which a conclusion could reasonably be drawn that a fair trial could be had in Hartford County. The court concluded that the defendants had failed to sustain the burden of proving, as the law requires them to do, that a fair and impartial trial could not be had in Hartford County. State v. Chapman, 103 Conn. 453, 470, 130 A. 899; State v. Rocco, 109 Conn. 571, 572, 145 A. 47; State v. Rogers, 143 Conn. 167, 172, 120 A. 2d 409, cert. denied, 351 U.S. 952, 76 S. Ct. 850, 100 L. Ed. 1476; 4 Wharton, Criminal Law and Procedure, p. 114. The court did not abuse its discretion in denying the motions for a change of venue.

The defendants claim that they were denied counsel in violation of the fourteenth amendment to the federal constitution and article first, § 9, of the constitution of this state. They were taken into custody by the state police on Saturday afternoon, February 23. On February 25, they were taken by the state police to police headquarters in New Britain, where they were booked for breach of the peace. They were presented in the Police Court in New Britain on February 26, when their cases were continued until March 5 without plea. On February 28, bench warrants having been served upon them charging them with murder in the first degree, they were presented in the Superior Court in Hartford. The court ordered them placed in the custody of the state police for further investigation. Before this was done, however, the defendants were asked whether they had counsel. It appearing that they did not and that they were without funds to provide any, the court offered to assign counsel to them. Taborsky stated that he did not want the public defender. He asked for Attorney Nathaniel Bergman or, if he was not available, Attorney Wallace R. Burke. Bergman not being able to undertake the case, Burke
62 was assigned as counsel. Culombe also refused the services of the public defender and asked that Attorney

Thomas McDonough be appointed to defend him. The court appointed McDonough.[1] Provision is made by law for the appointment by the judges of a public defender to act in behalf of accused persons who are unable to provide counsel for themselves. General Statutes § 54-80; State v. Reid, 146 Conn. 227, 234, 149 A. 2d 698. Nevertheless, each of these defendants was provided with counsel of his own choice who acted as a special public defender at the expense of the state. § 54-81. Although an accused who cannot provide counsel for himself is entitled to competent representation, there is nothing in our law which requires that he be given a choice of counsel.

The finding made by the court concerning the admissibility of Taborsky's confession shows that Taborsky did not ask for an attorney until he was presented in the Superior Court on February 28. The finding made in the Culombe case concerning the admissibility of his confession shows that Culombe, almost from the time of his first contact with the police concerning the New Britain murders, had abundant opportunity to call an attorney; for example, the police offered to call any attorney whom Culombe would name, but he named none; he was taken to his house by the police and there talked with his wife; she also saw him at state police headquarters. Taborsky claims that he should have been provided with counsel in time for the counsel to represent him at his presentation in the Superior Court on February 28. Culombe appears to assume that immediately upon his apprehension he should
63 have been offered counsel by the state. His appearance for booking at the police headquarters in New Britain was not a hearing, and for it he did not require counsel. His presentation in the Police Court in New Britain without counsel, when his case was continued, in no way jeopardized his rights. He was not required to, nor did he, enter any plea, nor was he called upon to do or say anything. See State v. Reid, supra, 235. The "refusal of a request to engage counsel violates due process not only if the accused is deprived of counsel at trial on the merits, Chandler v. Fretag [348 U.S. 3, 9, 75 S. Ct. 1, 99 L. Ed. 4] but also if he is deprived of counsel for any

[1] After the trial and during the pendency of the appeal, McDonough died. Alexander A. Goldfarb was appointed special public defender in his place.

part of the pretrial proceedings, provided that he is so prejudiced thereby as to infect his subsequent trial with an absence of 'that fundamental fairness essential to the very concept of justice.' Lisenba v. California, 314 U.S. 219, 236 [62 S. Ct. 280, 86 L. Ed. 166] (1941). Cf. Moore v. Michigan, 355 U.S. 155, 160 [78 S. Ct. 191, 2 L. Ed. 2d 167] (1957). The latter determination necessarily depends upon all the circumstances of the case." Crooker v. California, 357 U.S. 433, 439, 78 S. Ct. 1287, 2 L. Ed. 2d 1448; see annot. at 2 L. Ed. 2d 1644, 1646.

The claim that the defendants were deprived of counsel while they were held in custody for questioning has a direct bearing upon the admissibility of their confessions, a matter which will be discussed hereinafter. General Statutes § 6-49 provides for an arrest without warrant when the police have reasonable grounds to believe that a felony has been committed. Law enforcement problems vary widely in the several states, and state enforcement is accorded some latitude when an alleged violation of the due process clause of
64 the federal constitution is under consideration. Cicenia v. Lagay, 357 U.S. 504, 510, 78 S. Ct. 1297, 2 L. Ed. 2d 1523. In the course of their investigation of the series of robberies and homicides in the locality of Hartford, the police had reasonable grounds for believing that these defendants were implicated in a felony or felonies and for apprehending and holding them in custody. Under the law, an accused is entitled to counsel to aid him in his defense, not to prevent voluntary action on his part. State v. Bunk, 4 N.J., 461, 470, 73 A. 2d 249. The question is whether, during the investigation and questioning of a person suspected, there was an unreasonable delay in his obtaining counsel or whether he was forced to plea without the benefit of professional legal advice and whether, as a result, the opportunity for a fair trial was denied him. Once legal counsel is obtained; any illegality in the prior proceedings can be raised and the accused's rights fully protected. In the instant cases, the counsel who were furnished to these defendants pressed with ability and vigor, not only to the court on the preliminary hearing on the admissibility of the defendants' confessions, but also to

the jury on the trial, alleged illegality in the failure to provide counsel as well as in the methods by which the confessions were obtained. Upon the records, we conclude that the defendants were not unlawfully denied counsel.

The defendants assign error in the admission of their confessions in evidence. Taborsky claims that as to him the confession of Culombe was hearsay. The court so treated it and cautioned the jury time and again that they were to consider Culombe's statements only in connection with the charge against him. This phase of the admission of Culombe's confession was discussed when we were considering Taborsky's motion for a separate trial and
65 requires no further elaboration. The defendants claim that the confessions were not voluntary but were secured by duress, threats and psychological pressure. Before the confessions were admitted in evidence, the court, in the absence of the jury, conducted a preliminary hearing which consumed five full court days. Police officers, jail guards, and the jail physician concerned with the defendants' questioning and custody were examined at length. The defendants themselves took the stand, as did Culombe's wife. The following facts were properly found by the court: State police officers Frederick Moran and Eugene Griffin, on Saturday, February 23, 1957, at 2:10 p.m., saw the defendants leaving the home of Taborsky's mother on Park Terrace in Hartford to enter Culombe's car. The officers asked Taborsky to accompany them to state police headquarters to talk with Lieutenant Samuel Rome. Taborsky got into Culombe's car and was driven to headquarters. He went in and Culombe drove off. Detective Sergeant Donald Paige and Officer Robert Reimer went to Culombe's home at 20 Coleman Drive in Hartford. On their arrival, Culombe's wife said that he was in the toilet. While waiting, the officers heard metallic sounds coming from that direction. They took Culombe to police headquarters. There, both defendants agreed to accompany the officers. For purposes of identification, they were taken to a store in Coventry and to a package store in Rocky Hill. After they had supper, they returned with the

police to headquarters. Lieutenant Rome questioned Taborsky for some time and then locked him in a cell.

Culombe told Sergeant Paige, one of the officers who had accompanied him on the trip, that he was a gun collector
66 and that he had seven or eight guns which he would turn over to the police. Sergeant Paige then took Culombe to the latter's house. Culombe went to the toilet and then to his bedroom, where the officers found him with two guns, one of .25 caliber and the other of .38 caliber. They also found a clip of .25 caliber cartridges and, in a small safe, six guns and three boxes of ammunition. Back at police headquarters, Culombe was questioned further by Lieutenant Rome and Sergeant Paige and then placed in a cell for the night. The questioning covered the New Britain crimes and others under investigation. On Sunday, February 24, both Taborsky and Culombe were questioned again. On Monday, February 25, Culombe told Lieutenant Rome that he wanted a lawyer but refused to name a particular one. Rome told him that he could have a lawyer if he would say which one he wanted called. On the same day, both defendants were booked at New Britain police headquarters on charges of breach of the peace and held for their appearance in the Police Court the next day. On Tuesday, February 26, they were presented in that court and their cases were continued under bond. Afterwards, Taborsky was again questioned by Lieutenant Rome and then taken to the Hartford County jail under a mittimus from the New Britain court. Taborsky remained in jail until Thursday, February 28, when he was brought to state police headquarters in Hartford. There a bench warrant for appearance in the Superior Court was served upon him.

On Wednesday, February 27, in the afternoon, Sergeant Paige and Detective Robert Murphy of the state police questioned Culombe at police headquarters concerning the New Britain and other crimes. Culombe stated that the police
"were looking for four guns, two of which would be un-
67 der water, and were looking for two men and that he himself had not done any killing." Culombe then agreed to show the officers where the guns were. Lieutenant

Rome, Sergeant Paige, Detective Murphy and Detective Vincent O'Brien went with Culombe in a police car to Culombe's house. On the way, Culombe related the facts substantially as contained in his confession, outlined hereinbefore, except that he claimed that Taborsky, and not he, had shot Kurpiewski in the boiler room of the gasoline station. At Culombe's house, the officers removed the medicine cabinet from the wall in the toilet room and found, in a brief case between the walls, a gun and two blackjacks. They also found, in a safe, a metal box with some parts of a gun. At Culombe's direction, they recovered from a swamp at Dexter and Reed Avenues in Hartford a raincoat with human bloodstains on it. Culombe stated it belonged to him and was worn by Taborsky on the night they went to New Britain. While at his house, Culombe said to his wife that he had told a true story to the police and that he might get life but Taborsky would get the chair. The officers, at Culombe's suggestion, then went with Culombe to the intersection of Newfield and Dexter Avenues in Hartford. Pointing to a pond, he said that two guns could be found there and that the gun parts in the metal box would fit one of the guns. Culombe directed the officers to a service station, where he pointed out a 1949 black Oldsmobile which he said was previously owned by him and was used the night he and Taborsky went to New Britain. Later, at state police headquarters, Culombe admitted that he had participated in the New Britain crime. That evening he signed a written confession which described two holdups, including the one in New Britain. Later, he signed another statement
68 which described only the New Britain holdup. Culombe saw his wife at the house and at least twice at police headquarters after he was taken into custody and before his confession. He said nothing to her, however, about getting an attorney.

On Thursday morning, February 28, Culombe was served with a bench warrant charging him with murder. He was then presented in the Superior Court. The court informed him that the police wished to investigate further the charges against him and that he had the right to remain silent if he wished. Culombe said that he would co-operate with the police and, as

related hereinbefore, that he wanted counsel. The court informed him that he could have an attorney of his own choice at state expense. On the evening of March 2, while he was in a cell at state police headquarters, Culombe called the officer who was watching him and offered to give the police some further information concerning the New Britain affair. He then admitted that it was he who followed Kurpiewski into the service station, forced him at gun point into the boiler room and shot him. This admission was later incorporated into another written statement which Culombe signed. Although Culombe claimed that the police had used his wife and children to force a confession from him, the trial court found that Mrs. Culombe had come voluntarily to police headquarters with her children, whom she did not want to leave at home alone, that she was attended by a policewoman and was well treated, and that at no time was she used, or were the children used, to bring pressure on Culombe.

When Taborsky was presented in the Superior Court on Thursday, February 28, the presiding judge told him that he was releasing him in the custody of the state police for
69 the purpose of further investigation, that he need make no statement, and that any statement which he did make could be used against him. The following day, Friday, March 1, Taborsky's mother came to state police headquarters at her own request. She told Taborsky that she wanted him to tell the truth and that he should tell his part of the story, because Culombe had put the blame on him. Taborsky, then, in the presence of Lieutenant Rome and Officer Reimer, told his mother that at the Kurp gasoline station the other fellow killed the station attendant, that they both robbed him and that he, Taborsky, killed the customer and robbed him. Taborsky was questioned after his mother left. The questions and answers were taken in shorthand. A transcription of the notes was signed by Taborsky on March 3. When he was in the Police Court in New Britain on February 26 with his mother and sister, his mother had asked him if she should get a lawyer and he replied that he did not need a lawyer. Prior to his presentation in the Superior Court on February 28, Taborsky did not request

counsel. The court ruled that the confessions of both defendants were voluntary and admitted the confessions in evidence.

A confession is not admissible in evidence unless it is voluntary. State v. Castelli, 92 Conn. 58, 67, 101 A. 476; State v. Palko, 121 Conn. 669, 680, 186 A. 657; State v. Zukauskas, 132 Conn. 450, 459, 45 A. 2d 289; State v. Malm, 142 Conn. 113, 120, 111 A. 2d 685; State v. Rogers, 143 Conn. 167, 173, 120 A. 2d 409, cert. denied, 351 U.S. 952, 76 S. Ct. 850, 100 L. Ed. 1476; 2 Wharton, Criminal Evidence (12th Ed.) § 348. The issue is one of fact to be determined by the court in the exercise of a legal discretion, and its decision will not be disturbed unless that discretion has been abused. State
70 v. Lorain, 141 Conn. 694, 699, 109 A. 2d 504; State v. DiBattista, 110 Conn. 549, 562, 148 A. 664. The issue of admissibility is ordinarily resolved by the court after a preliminary hearing in the absence of the jury, the procedure followed in the instant cases. State v. Lorain, supra. The defendants claim that they were being illegally detained when the confessions were made. This cannot be true of Taborsky, because, before he confessed, he had been served with a bench warrant, had been presented in the Superior Court and warned of his rights, and had then been committed to the custody of the state police. Culombe, who confessed before his presentation in the Superior Court, was being held by the state police under § 6-49 of the General Statutes. That aside, there is nothing to indicate that either defendant at the time thought his detention to be illegal. Thus no irregularity in the detention, had there been any, could have induced, or contributed to the inducement of, the confession. State v. Zukauskas, supra, and authorities cited; State v. Buteau, 136 Conn. 113, 123, 68 A. 2d 681, cert. denied, 339 U.S. 903, 70 S. Ct. 516, 94 L. Ed. 1332; 20 Am. Jur. 431, § 498. An examination of the record does not disclose that the confessions were induced by anything which would make them involuntary and, therefore, inadmissible. The trial court did not abuse its discretion and properly admitted the confessions in evidence.

The defendants have assigned error in the denial of their motions to dismiss the indictments. They claim that the evidence was insufficient to satisfy the requirements of the so-

called two-witness rule. General Statutes § 54-83 provides that "[n]o person shall be convicted of any crime punishable by death without the testimony of at least two witnesses, 71 or that which is equivalent thereto." We have interpreted this statute to require "that the proof of all the essential elements of the capital crime charged (each of which must be proved beyond a reasonable doubt) shall not depend upon the testimony of one witness. If one or more witnesses testify to facts relevant and sufficient to prove some of the essential facts of the capital crime charged, and another witness or witnesses testify to facts relevant and sufficient to prove the remaining essential facts, the jury may find that the statute has been satisfied." State v. Schutte, 97 Conn. 462, 468, 117 A. 508; State v. Cots, 126 Conn. 48, 57, 9 A. 2d 138; State v. Malm, 142 Conn. 113, 118, 111 A. 2d 685.

There was ample evidence, independent of either confession, that the capital crimes charged had been committed, and also evidence to corroborate the essential facts stated in the confessions. A summary of the evidence includes the following: The defendants were together at Culombe's house on the afternoon of Saturday, December 15, 1956, the day the crimes were committed, and also in the evening of that day shortly after the bodies of the victims were found. That afternoon, the defendants had been seen bringing a television set into Culombe's house from his Oldsmobile. The set had been purchased by him on a deferred payment plan that afternoon in East Hartford. It was placed in the car with the help of the seller. Culombe paid for the set in full on the following Monday morning, December 17. The Oldsmobile was the car later identified by Culombe as the one in which he and Taborsky drove to, and returned from, New Britain on the evening of December 15. The sign on Kurp's gasoline station was as described by Taborsky in his confession. The body of 72 Janowski was found in the toilet room; there were two bullet wounds in his head. This corroborated Taborsky's description of the shooting. The body of Kurpiewski was found in the boiler room with one bullet wound in his head. The statements of both Taborsky and Culombe included these details of the crime. Janowski's car was found at the pumps

in front of the station, facing south. Taborsky's statement put the car in that position. In this car was Janowski's little daughter. This fact corroborated statements made by both Taborsky and Culombe as to the presence of a child in the car. Taborsky stated that Kurpiewski was wearing a cap with a black visor. There was independent testimony that Kurpiewski had been wearing such a cap, and one was found with Kurpiewski's body in the boiler room. Both defendants said, when they were taken to the gasoline station after their confessions, that the location of the desk and the cash register had been changed. Other evidence confirmed it. Two guns were retrieved from the pond where Culombe said he had disposed of the guns used in the shootings, Taborsky having directed him to do so. One of the guns was identified by evidence independent of the confessions as the one from which certain parts found in Culombe's house had been removed. The other was identified by Taborsky as the gun he used to shoot Janowski. A raincoat with human bloodstains on it was found in a swamp where Culombe said he had thrown it. Most of the details contained in the confessions were established by independent evidence more than sufficient to satisfy the two-witness rule.

Taborsky assigns error in the refusal of the trial court to charge as he requested on the application of the two-witness rule and in the charge as given. The court charged the
73 jury in accordance with the law stated in the cases heretofore cited. This claim of error is without merit.

Upon error alleged in the denial of their motions to set aside the verdicts, the defendants claim that the court applied an erroneous rule pertaining to the standard of sanity or mental capacity of the defendants to commit the crimes with which they were charged. They urged the rule stated in Durham v. United States, 214 F. 2d 862, 874; see State v. Pike, 49 N.H. 399. The court correctly charged the jury according to the rule stated in State v. Davis, 146 Conn. 137, 143, 148 A. 2d 251 cert. denied, 360 U.S. 921, 79 S. Ct. 1441, 3 L. Ed. 2d 1537, and State v. Donahue, 141 Conn. 656, 664, 109 A. 2d 364, cert. denied, 349 U.S. 926, 75 S. Ct. 775, 99 L. Ed. 1257. In the Davies case, we reviewed and reconsidered our rule and re-

jected the Durham rule. The cases at bar furnish no reason for further consideration of our rule. The defendants, at the expense of the state, obtained experts of their own choice to testify on their mental capacity. The state also offered expert testimony on this subject. The jury could properly find that the defendants had the mental capacity required by the rule stated in the charge to make them criminally responsible for their acts.

On the claim that the evidence failed to establish the guilt of the defendants beyond a reasonable doubt, no further extended discussion of the testimony and the exhibits is required. The jury had before them the confessions and the testimony concerning the circumstances under which they were given, substantially as hereinbefore detailed in our discussion of the issue of their admissibility. There was ample evidence, independent of the confessions, not only to corroborate the facts stated in them but to supply additional facts pointing to the de-
74 fendants' guilt. Neither of the defendants took the stand to deny his guilt or to show that the proof offered by the state as to the crimes was not true. This was the right of each defendant and did not relieve the state from establishing guilt beyond a reasonable doubt. State v. McDonough, 129 Conn. 483, 487, 29 A. 2d 582. A review of all the evidence establishes that the jury could find the guilt of the accused beyond a reasonable doubt as that term is defined in our cases. State v. Smith, 138 Conn. 196, 200, 82 A. 2d 816, and cases cited.

Both the defendants assign error in the refusal of the court, upon their motions, to excuse George W. Hannon of East Hartford from sitting on the jury. After the examination of Hannon by the court and by counsel on the voir dire, he was accepted by all as a juror. Before the entire jury had been selected, and before the defendants had exhausted the challenges allowed them (General Statutes § 51-242), the defendants moved that Hannon be excused by the court because he had, as a member of the board of finance of East Hartford, participated in the adoption of a resolution offering a reward for the arrest of the perpetrators of a holdup and killing in that town. It developed later that the defendants were implicated in this crime. The examination of Hannon clearly indicated

a lack of any prejudice. The most that can be claimed from the fact that he had participated in the adoption of the resolution offering the reward was, not that he was prejudiced personally against the defendants, but that he wanted the perpetrators of the crime apprehended and brought to justice. This is no more than any decent citizen would want. There was no abuse of discretion in the action which the court took in denying the motions to excuse Hannon as a
75 juror. State v. Potter, 18 Conn. 166, 175; DeCarlo v. Frame, 134 Conn. 530, 533, 58 A. 2d 846. Taborsky complains because veniremen were not excused by the court when they admitted what his brief describes as "a preconceived notion of guilt" of the defendants. It is true that some of the veniremen stated on their examination on the voir dire that they had read accounts in newspapers and had heard and seen radio and television broadcasts which led them to an opinion of the guilt of the accused. They all stated under oath, however, that they could and would disregard any opinion they might hold and would decide the cases only on the evidence presented in court and under the court's charge. The examinations of these veniremen disclosed that their opinions or suppositions did not, in fact, incapacitate them from sitting as impartial jurors, and the court's ruling cannot be disturbed. State v. Wilson, 38 Conn. 126, 138; State v. Willis, 71 Conn. 293, 315, 41 A. 820; State v. Klein, 97 Conn. 321, 325, 116 A. 596.

Culombe claims error in a charge by the court to the effect that the jury, in weighing the opinions of the expert witnesses, were to take into consideration the fact that those opinions might be based wholly or in part upon statements made to the experts by the defendants, who, being on trial for their lives, were not disinterested witnesses and were not, when they made the statements, under oath. A similar charge was made in State v. Saxon, 87 Conn. 5, 20, 86 A. 590. In that case, the statements which furnished some basis for the experts' opinions were in evidence from the lips of the accused. In the present instance, some of the statements upon which the experts testifying in behalf of Culombe could have relied were in evi-
76 dence from the testimony of the experts themselves as

to the history given to them by Culombe, and some from the lips of Culombe as a witness. No exception was taken to the charge, nor is there any reference made to it in the finding. Practice Book §§ 153, 398 and Form No. 559(B). Nevertheless, we have considered it. The charge as given applied to the expert testimony on behalf of the state as well as on behalf of Culombe and was correct under the circumstances. See State v. Kenyon, 134 Conn. 43, 49, 54 A. 2d 585.

Culombe also complains of the admission in evidence of a portion of a photograph taken of Kurpiewski as he lay dead on a stretcher. Culombe claims that the exhibit was so gruesome as to arouse the prejudice of the jury. The exhibit depicted facts material to the state's case, and the trial court did not abuse its discretion in admitting it. Thibodeau v. Connecticut Co., 139 Conn. 9, 14, 89 A. 2d 223, and cases cited; State v. Smith, 27 N.J. 433, 448, 142 A. 2d 890.

There is no error in either case.

In this opinion the other judges concurred.

[Clerk's certificate to foregoing paper omitted in printing.]

77 In the Supreme Court of Errors in the State of Connecticut

No. 4717

STATE OF CONNECTICUT

v.

ARTHUR CULOMBE, OF THE TOWN AND COUNTY OF HARTFORD, STATE OF CONNECTICUT

ON APPEAL FROM SUPERIOR COURT, HARTFORD COUNTY

Judgment

February 16, 1960

This appeal by the defendant from the judgment of said Superior Court was allowed by said Court on the third day of July, 1957.

On the 27th day of September, 1958, the appellant filed his assignments of error claiming error in the record, judgment, proceedings and decisions of said Court on questions of law

arising in the trial as may appear in the certified transcript of record on file in this Court, and said appeal came to this Court at its term holden on the first Tuesday of October, 1958, when the parties appeared and thence by continuance to the present term.

This Court, having heard the parties, finds that in the record, judgment, proceedings and decisions of said Court there is no error. Judgment entered February 16, 1960.

By the Court:

RAYMOND G. CALNEN,
Clerk.

[Clerk's certificate to foregoing paper omitted in printing.]

78 Supreme Court of the United States

No. 1005 Misc., October Term, 1959

ARTHUR CULOMBE, PETITIONER

v.

CONNECTICUT

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF ERRORS OF THE STATE OF CONNECTICUT

Order granting motion for leave to proceed in forma pauperis and granting petition for writ of certiorari

June 20, 1960

On consideration of the motion for leave to proceed herein in forma pauperis and of the petition for writ of certiorari, it is ordered by this Court that the motion to proceed in forma pauperis be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby, granted. The case is transferred to the appellate docket as No. 1021.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

June 20, 1960.

U. S. GOVERNMENT PRINTING OFFICE: 1960

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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1960

No. 161

ARTHUR CULOMBE,

Petitioner,

—*versus*—

STATE OF CONNECTICUT

Respondent.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF ERRORS OF THE STATE OF CONNECTICUT

PETITIONER'S BRIEF

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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1960

No. 161

ARTHUR CULOMBE,

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STATE OF CONNECTICUT

Respondent.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF ERRORS OF THE STATE OF CONNECTICUT

BRIEF FOR THE PETITIONER

Opinion Below

The opinion of the Supreme Court of Errors is reported at 147 Conn. 194, 158 A. 2d 239 and appears in Volume IV, Transcript of Record, p. 55 ff.

Jurisdiction

The judgment of the Supreme Court of Errors was entered on February 16, 1960. The petition for a writ of certiorari was filed May 12, 1960, and was granted June 20, 1960. The jurisdiction of this court rests on 28 U.S.C. §1257(3).

Questions Presented

1. Whether the confession taken from the mentally defective petitioner during the night of Wednesday, February 27, 1957, after five days of questioning, illegal detention, delaying tactics, lack of counsel, and direct use of petitioner's family, was so involuntary as to make its admission a deprivation of petitioner's life without due process of law in violation of the Fourteenth Amendment.

2. Whether the confession induced from the feeble-minded petitioner on Monday, March 4, 1957, four days after he was formally charged with murder, was inadmissible under the Fourteenth Amendment by reason of the deceit and misrepresentation used by police to deprive him of the services of his counsel.

3. Whether the confession elicited from the mentally-defective petitioner on Sunday, March 3, 1957, three days after he was charged with murder was inadmissible under the Fourteenth Amendment because of psychological pressures exerted and absence of court-appointed counsel.

Constitutional Provision Involved

The constitutional provision involved is the Fourteenth Amendment.

Statutory Provisions Involved

The statutes involved are Conn. Stat. §195d (1955 Supp.), now Conn. Stat. §6-49 (1958), *infra*, Appendix A, p. A-1; and Conn. Stat. §8796 (1949), now Conn. Stat. §54-80 (1958), *infra*, p. A-1.

Statement of the Case

(The parenthetical numbers prefaced by the letter "T" refer to the pages of the Transcript of Record, Vols. I-III.)

This case is concerned with the admissibility of three confessions introduced at the murder trial of Arthur Culombe, petitioner.

I. One confession, State's Exhibit Z-1, was taken on Wednesday, February 27, 1957, certain contents of which were admitted into evidence (T. 605).

II. A second confession, State's Exhibit EE, was induced Sunday, March 3, 1957, and was admitted into evidence at the trial of petitioner (T. 952).

III. The third confession, State's Exhibit Z, was obtained on Monday, March 4, 1957, and was also admitted into evidence (T. 952).

On December 15, 1956, the bodies of Edward J. Kurpiewski and Daniel J. Janowski were found in a gasoline station in New Britain, Connecticut. An autopsy performed on the bodies of these men revealed that they died as a result of gunshot wounds in the head.

On December 18, 1956, Lt. Rome of the Connecticut State Police began an investigation into these New Britain shootings (T. 239). On February 23, 1957, the petitioner Arthur Culombe was taken into police custody at 2:35 P.M. as a result of this investigation (T. 168).

Culombe is a 33-year-old mental defective with a mental age of nine to nine and one-half, and an intelligence quotient of sixty (T: 1180, 1289). He is either a moron (T. 1182, 1187, 1283) or an imbecile (T. 1219). An illiterate, he is unable to read and write except his own signature (T. 1181). Culombe is "enormously suggestible . . . and easily

influenced" (T. 1189, 1308-9), and "acts purely under stress as to reasoning power" (T. 1182).

He left school at 16 (T. 1168), at which time he had been in a special third grade class for slow learners for six years (T. 1168, 1193-4). After leaving school he was committed to two state institutions for the feeble-minded (T. 1172, 1199, 1218-20, 1223-24).

The three confessions were elicited during a ten-day period, beginning Saturday, February 23, 1957 through Monday, March 4, 1957.

SATURDAY, FEBRUARY 23, 1957

On Saturday, February 23, 1957, Culombe was escorted to State Police Headquarters at 2:35 P.M. (T. 168). After Lt. Rome, officer-in-charge, questioned him (T. 613), Culombe was taken for a ride to Coventry and Rocky Hill for the purpose of being identified (T. 614-616). This trip was taken in the company of three police officers and Joseph Taborsky, the other suspect (T. 169-241).

During this trip the State Police allowed Culombe and Taborsky to share a bottle of whiskey which Taborsky had in his possession when he was arrested earlier that day (T. 180-184, 221, 225, 318, 615, 617, 839, 840). The police questioned the suspects throughout the three-hour ride (T. 445).

They returned to State Police Headquarters at 6 P.M. (T. 180-241). Culombe was questioned by Sgt. Paige, Lt. Rome's assistant, from 6 P.M. to 8:15 P.M. (T. 191, 244, 260, 322), at which time he was driven home to show the police his gun collection (T. 169).

Arriving back at headquarters, Culombe was interrogated until midnight (T. 322, 625-30). Rome questioned him one and one-half to two hours (T. 244, 268, 338).

When Rome was not questioning Culombe, other officers were questioning him (T. 169-339). Altogether, Culombe was questioned by three or four officers (T. 625).

At 10 P.M., midway in the course of the interrogation, Lt. Rome placed Culombe under arrest (T. 330) on suspicion of having committed a felony (Conn. Stat. §195) (1955 Supp.), *infra*, Appendix A, p. A-1).

While questioning Culombe Saturday evening, the police ascertained that he was illiterate (T. 276), and that he had been in an institution for the feeble-minded (T. 182, 262-264).

He went to bed at midnight Saturday (T. 658).

Culombe was in the company of and questioned by at least four policemen from 2:30 P.M., until midnight Saturday (T. 658)—a total of more than nine hours.

SUNDAY, FEBRUARY 24, 1957

On Sunday, Culombe was questioned by State Police Officers and a City of Hartford detective (T. 196). Culombe was kept in his cell until mid-afternoon, when he was brought upstairs for a line-up (T. 631). Later that afternoon, Sgt. Paige interrogated Culombe (T. 175, 439). Then the Hartford detective continued the questioning (T. 634). Later, Sgt. Paige joined the detective in this questioning (T. 634).

After supper, Paige and the Hartford detective resumed the interrogation, questioning Culombe concerning several burglaries (T. 196). Later, Paige questioned Culombe alone on the subject of stolen canned goods found in Culombe's house (T. 538, 197). Culombe orally confessed at this time to stealing these provisions (T. 633). There-

after, Hartford police again questioned Culombe (T. 633). Lt. Rome also questioned Culombe Sunday night (T. 538). He was finally taken to his cell late that night (T. 637).

Culombe had been interrogated for at least several hours during the afternoon and evening by three officers.

MONDAY, FEBRUARY 25, 1957

At 9 A.M., on the third day of his detention, Culombe was brought upstairs from his cell in the State Police Headquarters for further questioning (T. 357-359). Rome promised Culombe that he would be able to obtain counsel that morning (T. 546, 638). At noon, after about two hours of questioning, Culombe was taken to the New Britain police headquarters (T. 248). There were crowds on both sides of the street outside police headquarters (T. 546). The police first kept Culombe in the Detective Bureau for a couple of hours (T. 639), then booked him for breach of peace with bail set at $25,000 (T. 248). He was then fingerprinted and photographed (T. 596).

The police took Culombe out through the crowd, and drove him to State Police Headquarters in Hartford (T. 641). Officers questioned Culombe during the drive (T. 642). He was logged in at State Police Headquarters at 2 P.M. (T. 545).

After being questioned by a New Britain detective (T. 642), Culombe was taken to his cell for about an hour. Questioning was then resumed by Sgt. Paige (T. 643, 696), Lt. Rome and one other officer (T. 643).

That evening Culombe was further interrogated by Lt. Rome (T. 248-249, 545), Sgt. Paige (T. 404, 441) and Officer Jaconis (T. 559). A statement was taken at that time concerning stolen canned goods found in Culombe's home (T. 559-705).

Culombe was questioned for two hours in the morning and for similar periods in the afternoon and evening—a total of 4 to 7 hours.

There is evidence that Culombe was sworn at and threatened (T. 649), kicked in the ribs (T. 645), and his wife threatened with prosecution concerning theft of the canned goods if he did not confess (T. 645-646).

TUESDAY, FEBRUARY 26, 1957

On the morning of the fourth day of Culombe's detention, the State Police took him to the New Britain Police Court (T. 545). Crowds lined the streets in front of the court (T. 546). Threats were made by members of the mob (T. 855). Culombe was afraid of the crowd (T. 652).

In the courtroom, photographers took flashbulb pictures of Culombe (T. 547) who, during the entire proceeding, was confined in a wire cage at the rear of the room (T. 247). There was a large crowd between the cage and the judge's bench which prevented Culombe from seeing or hearing the judge or otherwise participating in the proceeding (T. 650-651).

Culombe was not represented by counsel (T. 297), although Connecticut law provides for the appearance of the Public Defender at such a local court. Conn. Stat. §8796 (1949), Appendix A, p. A-1. Culombe was charged with breach of the peace, bond was set in the amount of $25,000, and the case was continued for a week (T. 249-767).

The court issued a mittimus ordering that Culombe be taken to and kept in the county jail "until he be discharged by due process of law" (T. 768).

The State Police disobeyed the mittimus (T. 952). They did not take him directly to the county jail, but held him at headquarters for interrogation for at least 6 hours that

day and night before taking him to the Hartford County Jail at 8:50 P.M. (T. 769). First, they questioned him at the scene of the shooting (T. 548), and then took him to headquarters (T. 303) where Sgt. Paige, Lt. Rome and another officer interrogated him for 2 more hours (T. 547-599, 654).

While Culombe was being questioned, his wife and two minor daughters were brought to headquarters against their will. The police caused Mrs. Culombe to confront and accuse her husband (T. 251, 403, 539, 556).

Lt. Rome's assistant, Sgt. Paige, characterized this questioning period and confrontation of Culombe by his wife and family as "an ordeal" for Culombe (T. 449).

At 7:30 P.M., petitioner was taken to his cell at State Police Headquarters, but he was not left alone. Sgt. Paige went with him and questioned him further (T. 423-24, 452-53).

Paige stopped questioning Culombe only because the latter was so upset that he broke down and sobbed (T. 400). Thereupon, he was finally taken to the county jail at 8:50 P.M. (T. 769-770).

By the time Culombe was finally taken to the county jail he had been under constant police surveillance for more than 9 hours that day and night, and had been interrogated most of that time. Although the police deny having beaten him, the jailer at Hartford County Jail testified that Culombe told him that he "was kicked around by the State Police" (T. 712).

WEDNESDAY, FEBRUARY 27, 1957

At 10 A.M., on the morning of the accused's fifth day of confinement (T. 769-770), the State Police knowingly violated the mittimus issued by the New Britain Police Court

(T. 427), by illegally removing Culombe against his will from the county jail. The State Police unlawfully kept him in their custody until a confession was elicited (T. 952).

Culombe was intensively questioned from 1:30 P.M. on Wednesday (T. 399) until the early hours of Thursday morning (T. 504), when he finally signed a confession (Exhibit Z-1), in which he admitted being present at the time of the robbery, but denied any killing.

At 3:30 P.M., after two hours of questioning at Headquarters by three officers in succession (T. 253, 494, 582), Culombe was taken to his home (T. 560). He was accompanied by four police officers (T. 388). Lt. Rome and others questioned him on the way home, at his home, and while driving in and about Hartford (T. 389-394). Some time after 6 P.M., Culombe was returned to State Police Headquarters, and subsequent to a period of questioning (T. 499-501), he had dinner in the company of the State Police officers (T. 501).

At 8 P.M., intensive interrogations were resumed (T. 399, 572), conducted by Lt. Rome, two other State Police officers and a county detective. Sgt. Paige testified that at this time Culombe was tired, his clothing was a "sorry sight," and he had "been through quite an ordeal" (T. 400). At 10:55 P.M., a written statement from Culombe was begun (T. 486-487, 502; State's Exhibit Z-1). The portion of that statement relevant to the New Britain shooting was started at 12:30 A.M., Thursday morning (T. 504).

The method used for constructing this statement was as follows: Lt. Rome would ask a question; Culombe would answer; Rome would put this answer into narrative form; and then this narrative would be typed (T. 502, 572, 573). The statement was composed by Rome using his own words, syntax and grammar rather than that of Culombe (T. 400, 580, 581). The statement was read to Culombe, who,

being illiterate, was unable to read it himself. He then signed it (State's Exhibit Z-1). In this statement he admitted his presence at the New Britain shooting, but denied killing anyone, stating that Taborsky, another suspect, killed both victims. This statement was completed at approximately 1 A.M., Thursday morning (T. 398).

Culombe had been questioned for almost twelve hours that day and night, his only break from formal interrogation occurring when he ate with the police. Thus, five days after Culombe was taken into custody a confession was finally extracted.

During these five days of questioning, Culombe had been interrogated at least 9 hours on Saturday, several hours in the afternoon and evening on Sunday, 4 to 7 hours on Monday, 7 hours on Tuesday, and more than 11 hours on Wednesday—a total in excess of 31 hours.

The prolonged and intensive questioning by the police was aggravated not only by petitioner's feeble-mindedness, but by the lack of counsel, the illegal detention, the delaying tactics, and the use of petitioner's wife and family.

(a) Culombe lacked counsel from his arrest on Saturday, February 23, 1957 until the following Friday, March 1, when the court appointed a Special Public Defender (T. 742). During the five days preceding the confession induced late Wednesday night, February 27, Culombe had asked for an attorney on at least 6 occasions.

Culombe first requested counsel on Saturday evening (T. 304, 511, 626, 688, 689). Counsel was discussed Sunday night by Culombe and Lt. Rome (T. 359). On Monday morning, Lt. Rome promised Culombe that he would have an opportunity to get counsel that morning (T. 546, 638, 639), but the promise was unfulfilled (T. 641). Lt. Rome denied Culombe's request for an attorney Monday night

(T. 645). Culombe was told by Rome that he would be able to retain counsel on Tuesday morning (T. 648), but never was given the chance (T. 650). Tuesday afternoon, Culombe asked for a lawyer (T. 863). Culombe asked to see the State's Attorney on Wednesday afternoon, but instead he was interrogated further (T. 666).

On Thursday, February 28, twelve hours after his confession, Culombe was brought before the Superior Court, where he was promised counsel of his choice if possible (T. 1023). Special Public Defender Thomas F. McDonough was actually appointed on Friday, March 1 and saw Culombe for the first time either on that or the following day (T. 675).

(b) The State Police extended the period during which Culombe was questioned by delaying tactics and illegal detention. The statute under which Culombe was arrested on suspicion of felony Saturday night (T. 330) recites that any person so arrested "shall be presented with reasonable promptness before proper authority." Conn. Stat. §195d (1955 Supp.), *infra*, Appendix A, p. A-1. Culombe was not presented on a felony charge until the following Thursday in Superior Court, six days later.

Lt. Rome conceded that Culombe could have been booked on Sunday and presented on Monday, but was not (T. 333). On Monday, Culombe was taken to New Britain. The State Police allowed photographers to take pictures of petitioner for an hour or so, thereby causing a delay which prevented his presentment in police court that day (T. 333).

Lt. Rome testified that this postponement was to enable the police to question the suspects further (T. 334-335).

Culombe was finally presented in New Britain Police Court on Tuesday, three days after arrest. He was not presented on a felony, but on a technical charge of breach of peace (T. 332). The accused was not warned of his

rights nor allowed to approach the bench in order to get a hearing. The case was continued. The purpose of this procedure in the New Britain Police Court was to enable the police to make further interrogations (T. 302).

After this proceeding, Culombe was detained in violation of the mittimus for the next seven hours. The next day, Culombe was unlawfully removed from the county jail (T. 952) and taken to State Police Headquarters. It was during this latter unlawful detention that Culombe was induced to confess his presence at the scene of the shootings.

The postponement of Culombe's presentment and the illegal removal from jail gave the State Police the additional time and opportunity necessary for obtaining this confession (T. 302, 334-335).

(c) The State Police used petitioner's wife and two minor children as instruments to obtain a confession (T. 539). In fact, Lt. Rome declared that the reason he brought Mrs. Culombe to headquarters was "to use her as another way of getting a confession" from her husband (T. 370-1).

Paige questioned Mrs. Culombe at home on Saturday night, with her husband's knowledge (T. 691, 623).

On Sunday night Mrs. Culombe was taken to State Police Headquarters (T. 198-9, 694). Although she did not see her husband, Culombe heard her crying, and recognized her voice and that of Lt. Rome while she was questioned in the next room at headquarters.

On Tuesday, Lt. Rome, after talking to Mrs. Culombe at her home for about one-half hour (T. 249), asked her to come to headquarters (T. 250). Although she did not want to go, especially with the children (T. 722) she was taken to State Police Headquarters accompanied by her thirteen- and five-year-old daughters (T. 525, 721, 725-26).

At headquarters that night the following occurred:

Rome first talked to Mrs. Culombe (T. 250). He then talked to Mrs. Culombe and her husband together (T. 250). In Rome's presence, husband and wife talked together for about 15 minutes (T. 542). Mrs. Culombe told her husband to tell the truth (T. 739), and then accused him of committing the crime (T. 528, 541).

A statement damaging to her father was taken from Joanne, Culombe's thirteen-year-old daughter (T. 529-530). Joanne was also used to elicit a confession when Lt. Rome said to her, in Culombe's presence, "Honey, come here and tell your father what you told us" (T. 553, 657).

Culombe could have seen that his wife was upset at their Tuesday meeting (T. 725-6). Paige said that Culombe was upset this night because he had been talking to his wife (T. 449), and because of the "use" of the family (T. 688). In fact, Culombe was so upset that he sobbed in front of Sgt. Paige when the latter attempted to question him further in his cell after he met with his wife (T. 440, 549, 657).

On Wednesday, Culombe was taken to his home about 4 P.M. where he talked to his wife for approximately 15 minutes (T. 607). Culombe told her that he did not want to cause her any embarrassment insofar as the neighbors were concerned by having the police come to his home (T. 589). Culombe made up his mind to make the statement one-half to one hour after seeing his wife, because of abuse to the family, the pressures exerted upon him, and a desire to be left alone (T. 671-672).

Culombe's five-year-old child, Sandy, appeared sick to him on Wednesday (T. 668).

Culombe was aware that his wife was being questioned by the police on Saturday, Sunday, Tuesday, and Wednesday (T. 702). He was being accused by his wife and

he apprehended that his older daughter was incriminating him (T. 553, 657). He was upset by the use of his wife, the presence of his children at headquarters, and the embarrassment to his family. He said at the trial that he confessed to save his family this embarrassment (T. 669).

THURSDAY, FEBRUARY 28, 1957

Culombe was presented in the Superior Court for Hartford County on a bench warrant (T. 1022). He was charged with murder by the court (T. 1022). At the request of Columbe, the court stated that it would appoint Attorney Thomas F. McDonough, since deceased, as his Special Public Defender if he were available. Culombe was remanded to the custody of the State Police (T. 700, 1024) for further investigation. In the afternoon, Culombe was questioned by New York City detectives about crimes which had been committed within that jurisdiction (T. 443). Culombe remained that night at State Police Headquarters.

FRIDAY, MARCH 1, 1957

Attorney McDonough was appointed counsel for Culombe by the Superior Court for Hartford County (T. 742). Culombe was used in inducing Taborsky to make a confession (T. 748). Culombe was kept at Headquarters for the night.

SATURDAY, MARCH 2, 1957

A state-appointed doctor and a psychiatrist performed an intensive two-hour examination of Culombe in the morning. Although the testimony is ambiguous, McDonough met Culombe for the first time either Saturday, or perhaps, the previous afternoon (T. 675). Culombe remained at State Police Headquarters throughout his eighth day of confinement. He was restless and nervous, according to the police (T. 914). At 10 P.M., Culombe orally admitted to State

Policeman Fersch, his guard, that he had killed the service station attendant (T. 908-909). Fersch took no notes of the contents of this statement (T. 917).

SUNDAY, MARCH 3, 1957

On Sunday morning, Culombe was taken from his cell in State Police Headquarters upstairs to the interrogation room next to Lt. Rome's office (T. 910). There he signed a statement (State's Exhibit EE) in which it was admitted that he killed the attendant.

The same method as that used by Rome on Wednesday night—the paraphrasing in Rome's words of Culombe's answers to interrogatories—was used in drafting and eliciting this confession (T. 910-11, 1092-3).

A State policeman testified that Culombe's answers could have been transcribed (T. 922). He also testified that State's Exhibit EE was the statement of Lt. Rome rather than that of Culombe (T. 922).

Culombe's attorney, the Special Public Defender, was not present during this questioning and had not been notified that such interrogation was to take place (T. 910, 1092).

On Sunday afternoon, Culombe's attorney ordered the State Police to leave Culombe alone and return him to jail (T. 295, 676). Rome knew that it was counsel's prerogative to ask him to transfer Culombe to jail (T. 508). This was done immediately (T. 295).

MONDAY, MARCH 4, 1957

It had been decided by the State Police on Sunday that Culombe should sign another confession (T. 503). This confession was to be an excerpt of the confession taken on Wednesday, February 27 (State's Exhibit Z-1), and would pertain only to the New Britain shooting. As a re-

sult of this decision, a new statement was drawn up by reproducing the Wednesday night confession (Z-1), excluding all material not pertinent to the New Britain crime (T. 503-504).

The time on this excerpted confession was changed by the police from 10:55 P.M., Wednesday, to 12:30 A.M., Thursday morning to coincide with the time when the interrogating officers claimed the statement about New Britain was commenced (T. 504-505).

On Monday, Lt. Rome and Officer O'Brien went to the County Jail, taking with them the pre-typed statement composed the previous day (T. 505). Lt. Rome told Culombe that the visit was "okayed" by his Special Public Defender, and that all he wanted was for Culombe to sign some papers "you forgot to sign" (T. 676). When Culombe said that McDonough had told him he didn't want him to sign anything, Rome said that McDonough "knew about this, and I guess it is alright" (T. 677).

In reality, Culombe's attorney knew nothing about nor approved such an action, and particularly was not apprised of the fact that Rome was going to disobey his specific order to leave his client alone (T. 507-508).

Rome knew that this procedure was against the Special Public Defender's orders (T. 511). When questioned on this matter at the trial by McDonough, Rome said, "I don't take any orders from Mr. McDonough," which answer brought an admonition from the court (T. 507). Lt. Rome testified that he did not feel it necessary to tell Culombe's attorney in advance about the signing (T. 510-511), because he "could do better without" McDonough present (T. 511).

At the trial, the Wednesday night confession, Exhibit Z-1, was discussed and referred to while the jury was present (T. 962-963). In this confession Culombe admitted

to being present at the murder scene, but stated that Taborsky killed both of the deceased (State's Exhibit Z).

The Sunday confession, State's Exhibit EE, was introduced (T. 912) and admitted into evidence (T. 952). Culombe admitted responsibility for the death of one of the deceased in this confession (State's Exhibit EE).

The Monday confession, State's Exhibit Z, was introduced (T. 396) and admitted into evidence (T. 952). This confession, except for a few changes in sentence structure and references to time (T. 504), was a copy of Exhibit Z-1, confession taken the previous Wednesday. In the Monday confession Culombe denied responsibility for either of the murders (State's Exhibit Z).

Culombe was found guilty of murder in the first degree and sentenced to death. The Supreme Court of Errors of the State of Connecticut affirmed the verdict and judgment.

Summary of Argument

The Supreme Court of Errors of the State of Connecticut erred:

1. In affirming the admission into evidence of the involuntary confession extracted on Wednesday, February 27, 1957, from the feeble-minded petitioner who, without benefit of counsel, was questioned more than thirty-one hours over a five-day period, during which time petitioner was subject to illegal detention and unreasonable delays in his presentment, and in the course of which questioning the police confronted petitioner with his accusing wife and daughter. The admission of this confession conflicts with decisions of this court and has deprived petitioner of his life without the due process of law guaranteed by the Fourteenth Amendment.

2. In affirming the admission into evidence of the confession made by the mentally defective petitioner on Monday, March 4, 1957, four days after he was formally charged with murder, which confession was obtained by the deceit and the false representation of the police when they assured petitioner that his court-appointed counsel had sanctioned his signing the confession; said admission has deprived petitioner of his life without due process of law under the Fourteenth Amendment.

3. In affirming the admission into evidence of the confession made Sunday, March 3, 1957, by the mentally defective petitioner, three days after he was formally charged with murder, the confession having been induced by the employment of psychological pressures by the police in the absence of court-appointed counsel, which admission has deprived petitioner of his life without said due process of law.

ARGUMENT

This case is concerned with the admissibility of three confessions introduced at the murder trial of petitioner, Arthur Culombe. Each confession is discussed in a separate argument.

I.

Petitioner's Confession Made the Night of Wednesday, February 27, 1957, Was Involuntary and Its Use Violated Due Process of Law Under the Fourteenth Amendment.

This case poses the issue as to whether a confession signed by the defendant in the course of extensive and intensive interrogation by the police was involuntary, and thus not admissible at his subsequent trial.

The use of a defendant's confession which was obtained by coercion, whether physical or mental, in a State criminal trial, is forbidden by the Fourteenth Amendment. *Leyra* v. *Denno*, 347 U.S. 556, 558. Even though evidence other than the confession establishes the guilt or corroborates the confession, the presence of an involuntary confession is sufficient reason to set aside the conviction. *Blackburn* v. *Alabama*, 361 U.S. 199, 206.

Controversion of the facts is an inescapable consequence of secret inquisitional practices. *Ashcraft* v. *Tenn.*, 322 U.S. 143, 152. In this case there is evidence, which may be controverted, that petitioner was physically and verbally abused (T. 644-5), threatened (T. 644-6), and put in fear by mobs (T. 652, 656). Under the rule in *Brown* v. *Mississippi*, 297 U.S. 278, these coercive measures would be sufficient to exclude the confession.

Even if the evidence of physical violence is disregarded, the undisputed admissions of the State Police alone significantly raise the constitutional question as whether or not the confession of petitioner was voluntary. This court has the duty to make an independent examination of the record of the trial proceedings when the question of voluntariness of a confession is presented. *Chambers* v. *Florida*, 309 U.S. 227, 228-229. It must look to the undisputed evidence and to the uncontroverted testimony of the defendant. *Gallegos* v. *Nebraska*, 342 U.S. 55, 62.

It is submitted that the undisputed evidence of Culombe's feeble-mindedness, his prolonged and exhaustive questioning, the illegal police procedures, the actual use of petitioner's wife and family to aid in the extraction of a confession, and the lack of requested counsel, indicates that petitioner's mental freedom was so limited as to make his confession on the night of Wednesday, February 27, 1957 involuntary under the Fourteenth Amendment.

(1) *Mental Defectiveness.* Petitioner has been a mental defective since infancy. Having progressed only to a special third grade class for slow learners by the age of 16, he is an illiterate who can neither read nor write, nor sign his name in full without often misspelling it.

Medical and scientific tests indicate that Culombe is an imbecile or a moron, and a feeble-minded person with an intelligence quotient of 60, or a mental age of nine to nine and a half years; that he is and always has been a highly suggestible person, easily led, with a lack of understanding and judgment; and that for a long period of time he suffered from a brain abnormality. He is of adult age, with a child's mind (T. 1163 ff, 1175 ff, 1180 ff, 1182, 1184 ff, 1199 ff, 1217 ff, 1221 ff, 1289, 1294-5, 1311, 1317-1323; Culombe's Exhibits 7, 8, 9, 10, 11).

This court has considered mental defects as important in evaluating whether a confession is coerced. *Payne* v. *Arkansas,* 356 U.S. 560, 567 (mentally dull 19-year-old); *Fikes* v. *Alabama,* 352 U.S. 191, 193 (mental illness and low mentality); and *Blackburn* v. *Alabama,* 361 U.S. 199 (psychosis). It is submitted that the nature and extent of petitioner's defect reduced his power of resistance and made him easy prey for the sustained questioning and psychological pressures of the police. *Stein* v. *People of the State of New York,* 346 U.S. 156, 185.

(2) *Sustained Interrogation.* The State Police began questioning Culombe on Saturday, February 23, 1957, with the object of obtaining a confession (T. 399). Petitioner was interrogated for five days at the end of which time he confessed. This questioning was generally in intervals of three to six hours, which were connected by trips with the police to obtain evidence, by trips to the New Britain Police Headquarters and Police Court, and by meals with the police. When awake, he was rarely left alone.

On Saturday, petitioner was questioned from 2:30 P.M. until midnight. On Sunday, he was questioned for several hours in the afternoon and evening. He was again questioned on Monday in the morning and intermittently after his return from the New Britain Police Headquarters until some time in the evening, a total of four to seven hours. On Tuesday, he was questioned continuously for 7 hours. This particular questioning period was characterized by Lt. Rome's assistant as an "ordeal." On the day of the confession (Wednesday), petitioner was questioned from 1:30 P.M. until the early hours of the following morning (Thursday). The questioning was performed in relays by teams of police (T. 257), or by single officers.

At the end of this extended questioning petitioner signed a confession (State's Exhibit Z-1), admitting that he was present at the time of the crime.

This court has repeatedly held that persistent questioning raises the issue of the involuntariness of a confession. *Turner* v. *Pennsylvania*, 338 U.S. 62, 63-65; *Johnson* v. *Pennsylvania*, 340 U.S. 881. In *Turner*, the defendant was subjected to five days of relay questioning from four to six hours a day, no single period exceeding three hours—a total of 23 hours. In *Johnson*, the defendant was questioned for a total of six hours during a five-day period, in sessions of fifteen minutes to one and one-half hours. *Johnson* v. *Pennsylvania, supra*, referring to *Comm.* v. *Johnson*, 365 Pa. 303, 312-313. In the case at bar, Culombe was questioned for five days for a total exceeding 31 hours.

In addition, there was the cogent factor that he was a mental defective.

(3) *Illegal Police Procedures and Delaying Tactics.* It is submitted that the methods by which the State Police managed to question the petitioner for five days before

presenting him on the charge of murder is most relevant to the question of coercion.

Although taken into custody early Saturday afternoon, petitioner was not officially arrested until 10 P.M. that night. This arrest was made under Conn. Stat. §195d (1955 Supp.), *infra*, Appendix A, p. A-1, which empowers members of the state police department to arrest, without previous complaint and warrant, any person who such officer has reasonable grounds to believe has committed a felony. This statute also requires that a person arrested thereunder "shall be presented with reasonable promptness before proper authority."

According to Lt. Rome of the State Police, Culombe could have been booked on Sunday at Police Headquarters and presented in court on Monday (T. 333-334). This would have been in accordance with the rules of the State Police, which state:

> "In the State Police Department, it is our policy to present any person arrested before proper authority within 24 hours of the arrest unless some urgent circumstances requires a longer detention." Connecticut State Police training school lectures, quoted in Wright & Reardon, *Connecticut Police and Prosecutors Manual* 52 (1959).

In fact, Culombe was not presented until Tuesday noon, 86 hours after formal arrest and 94 hours after being taken in custody. Lt. Rome testified that this deliberate delay was to enable the State Police to question Culombe longer (T. 332-334).

It is also the practice of the state police to make an entry in a Log Book when an arrest is made (T. 534-535). The fact that Culombe's arrest Saturday night was not recorded in this Log Book (T. 536, 545) is evidence of

another deviation from standard procedures, thus depriving the accused of an objective record of the specific time he was arrested without warrant.

When petitioner was finally presented on a holding charge of breach of the peace, he was taken through crowds to the New Britain Police Court, put in a wire cage at the rear of the court, was not presented before the bench, was cut off from view of the bench by a large crowd of spectators and photographers, and was not advised of any of his constitutional rights and privileges. He was charged with breach of the peace, placed under $25,000 bond, and the case was continued until the following week, without plea being entered. Throughout this proceeding no counsel was furnished Culombe, notwithstanding the fact that he was promised one by Lt. Rome (T. 648), and notwithstanding the fact that Conn. Stat. §8796 (1949), *infra,* Appendix A, p. A-1, authorizes the public defender to appear on behalf of an accused in such a local court. The State Police exploited this mock proceeding to their advantage. By obtaining a continuance the police were thus able to continue their sustained interrogation for 36 hours. Had counsel been furnished to Culombe, cogent argument could have been made that the case either be dismissed or tried at that time, or in the alternative a writ of habeas corpus could have issued. Without counsel, petitioner was prevented from participating in this proceeding.

Furthermore, a mittimus was issued by the New Britain Police Court directing that Culombe be taken to Hartford County Jail until released by due process of law. The State Police, however, did not take him directly to the county jail. Instead, they brought him to State Police Headquarters and questioned him there for six hours. The following day, Wednesday, at 10 A.M., the police unlawfully removed him from the jail and transported him, as if a chattel, to Headquarters for further questioning.

Significantly, the trial court made a specific and unequivocal finding that Culombe was illegally detained, "in so far as the so-called borrowing from the jail is concerned" (T. 952).

Delays in presentment and illegal detentions are relevant factors in determining the admissibility of confessions. *Payne* v. *Arkansas,* 356 U.S. 560, 567; *Fikes* v. *Alabama,* 352 U.S. 191, 197; *Turner* v. *Pennsylvania,* 338 U.S. 62, 64; and *Stein* v. *New York,* 346 U.S. 156, 187. After holding Culombe on suspicion of felony for two days, they delayed presenting him before proper authority for an extra twenty-four hours so as to gain time for additional interrogation. Then, following the New Britain police court proceeding, the police illegally detained him and then subjected him to an "ordeal" of questioning. Failing in their efforts to obtain a confession during this period, they illegally removed Culombe from jail the next day and kept him for fourteen hours until he confessed. With confession in hand, the police finally brought him before the Superior Court, where he was formally charged with the murder about which he had been interrogated for the preceding five days.

(4) *Use of Wife and Family.* The coercive tactics of the State Police are further illustrated by the recurrent use of petitioner's wife and two minor daughters as a means of extracting a confession. Mrs. Culombe was questioned at home Saturday night, and at State Police Headquarters Sunday and Monday nights. Lt. Rome admitted that he used Mrs. Culombe to obtain a confession, and that she was in fact a help when, on Tuesday night, she confronted her husband and told him to confess (T. 370-371). Cf. *Spano* v. *People of the State of New York,* 360 U.S. 315, 318-319. Culombe's thirteen-year-old daughter was also asked in petitioner's presence to repeat statements which incriminated her father (T. 553). Further, the knowledge

of the presence at Headquarters of his sick five-year-old daughter depressed him (T. 529-533). This studied and calculated use of the wife and two children had a decisive and obviously coercive effect in compelling the accused to confess, so as to spare his family the further embarrassment, shame, and anxiety they were caused to suffer at the hands of the police authorities (T. 589, 598).

(5) *Language of Confession.* Contributing to the evidence of the coercive action of the police was the fact that the confession was not in Culombe's language and syntax, but in that of his interrogator, Lt. Rome. *Blackburn* v. *Alabama,* 361 U.S. 199, 207-208. Such a confession is bound to be colored by the purpose of the questioner.

(6) *Lack of Counsel.* Throughout this entire five-day period Culombe was without counsel. He expressly asked for counsel on Saturday, but allegedly because he did not name any specific attorney, the State Police declined to call anyone. It is undisputed that Lt. Rome broke his express promise to provide him counsel on Monday (T. 546, 638). In total, Culombe asked for counsel on six occasions. Lack of counsel for whatever reason is relevant to the question of coercion. *Haley* v. *Ohio,* 332 U.S. 596, 598, 600-1; *Payne* v. *Arkansas,* 356 U.S. 560, 567; *Blackburn* v. *Alabama,* 361 U.S. 199, 207.

Each of these factors: (1) petitioner's feeble-mindedness; (2) the relentless and intensive questioning over a five-day period; (3) the illegal removal and detention; (4) the direct use of Culombe's wife and children; (5) the ghosted language of the confessions; and (6) lack of counsel—may singly be sufficient to prove coercion. This court has consistently discountenanced each and every one of the foregoing factors as being constitutionally obnoxious.

Certainly, cumulatively and jointly they portray a procedure so corrupt with defects in the denial of due process, so violative of the basic legal and constitutional rights of the accused that, under no circumstances, could the confession obtained thereby be considered but involuntary and unreliable.

Although this confession (Exhibit Z-1) was not admitted into evidence as a full exhibit, the use made of this confession could hardly have been more effective had its details been put into evidence. It was substantially incorporated verbatim as Exhibit Z (T. 962-963). Exhibit Z-1 was referred to during the trial as the basis for Exhibit Z (T. 962-963). This court has held that a coerced confession, even though it is not admitted into evidence, is a sufficient reason for reversal if it has not been insulated from the trial. *Malinski* v. *New York*, 324 U.S. 401, 407-410.

The use of this confession denied petitioner of his constitutional rights under the due process clause of the Fourteenth Amendment.

II.

The Admission of the Confession of Monday, March 4, 1957, Coerced by Police Trickery and Made Without Benefit of Retained Counsel Four Days After a Formal Charge of Murder, Violated Due Process of Law.

This case poses the issue as to what extent defendant's constitutional right to retained counsel should be protected after he has been formally charged with the crime of murder.

Culombe was charged with murder on Thursday, February 28 in the Superior Court for Hartford County (T. 1022). The court appointed a Special Public Defender

to act as petitioner's counsel. After this hearing he was no longer a mere suspect. Cf. *Crooker* v. *California*, 357 U.S. 433 with *Spano* v. *People of the State of New York*, 360 U.S. 315, 325.

The police were not satisfied with the form of the statement which had been elicited Wednesday night, February 27, 1957 (State's Exhibit Z-1). It was decided at a conference between Lt. Rome and his superior officer to prepare a copy of that statement which would exclude all information not relevant to the New Britain crime. This was prepared on Sunday, March 3 (T. 503).

On Monday, March 4, Lt. Rome took this excerpted copy to the county jail to get Culombe's signature (T. 505).

On the previous afternoon, if not prior thereto, the Special Public Defender held a conversation with Lt. Rome in which he ordered the state policeman to remove Culombe from the State Police Headquarters and return him to the county jail (T. 507). McDonough also explicitly directed Lt. Rome to leave Culombe alone and not bother him any more (T. 507).

In defiance of this permissible and reasonable order by defendant's counsel, Lt. Rome took the prefabricated confession to the jail the next day. After Rome explained and read it aloud, Culombe signed it. Before he signed it, however, Culombe questioned Rome about his counsel not being there, and Rome answered that it was "okayed" by the Special Public Defender, which was untrue.

In manifest disregard of the ideal standards of honesty, fairness and decency established for law enforcement bodies, Lt. Rome, for the purpose of securing his execution of the revised confession, used fraud and deceit in depriving petitioner of the services of his court-appointed counsel. That this was not an act of inadvertence or

thoughtlessness became clear during the murder trial when Lt. Rome testified that "he didn't think it was necessary" to notify Culombe's counsel of his intention to obtain a confession from the defendant (T. 510-511). When asked whether the Special Public Defender had asked him to leave Culombe alone, Lt. Rome contemptuously responded, "I don't take my orders from Mr. McDonough," using a tone of voice which brought an admonition from the court (T. 507).

It has been often judicially noted that our system of justice may be abused by overzealous prosecutors or police. At certain stages in the judicial proceedings a defendant's constitutional rights can only be secured through counsel, whose knowledge of the intricacies of criminal law and procedure gives protection from such abuse. Such important rights were violated or disregarded in the handling of this case. *Watts* v. *Indiana*, 338 U.S. 49, 54.

In a capital case a defendant has an absolute right to counsel at trial. *Powell* v. *State of Alabama*, 287 U.S. 45. Effective counsel has also been held to be a constitutional right at stages prior to trial. *Chandler* v. *Fretag*, 348 U.S. 3, 9, 10. In a recent decision this court said:

> Under our system of justice an indictment is supposed to be followed by an arraignment and a trial. At every stage in those proceedings the accused has an absolute right to a lawyer's help if the case is one in which a death sentence may be imposed. . . . Indeed, the right to the assistance of counsel whom the accused has himself retained is absolute whatever the offense for which he is on trial. *Spano* v. *New York*, 360 U.S. 315, 327.

It is submitted that the admissibility of the Monday morning confession (Exhibit Z) at petitioner's murder trial

presents the same important issues of constitutional rights which pervaded *Spano*.

There is no claim that petitioner had an absolute right to counsel during the first five days of questioning. The claim of denial of counsel is directed, as in *Spano*, to that period after petitioner had been formally charged with murder, after the court had designated his counsel, and after such counsel had explicitly ordered the police to stop interrogating him. The elicitation of a confession under such conditions raises grave constitutional questions.

The aggravated circumstances surrounding the denial of counsel at the time of this confession present an even more serious breach of due process, which amount to coercion. Culombe had been interrogated intermittently for nine days when this prefabricated confession containing the paraphrasings of Lt. Rome was proffered for his signature. Not only did the police fail to inform petitioner's counsel of the proposed statement, thereby assuring his absence, but they falsely represented that he had given permission for his client to sign the document. The use of chicanery in gaining a confession from an accused after he has been formally charged with murder has recently been attacked by this court. *Spano* v. *New York*, 360 U.S. 315. Here, the deceit was used not only to obtain petitioner's signature, but also to allay his fear stemming from the fact his counsel was not present.

Furthermore, the subject of this secret interrogation was an illiterate, highly suggestible moron who had never passed the third grade. This court has considered the psychological disabilities of a defendant as an important factor in determining whether or not there has been a constitutional denial of counsel where the need for such is

compelling. *House* v. *Mayo*, 325 U.S. 42, 45; *Spano* v. *People of the State of New York*, 360 U.S. 315, 325.

The admission into evidence of a confession obtained through deceitful practices which effectively denied counsel to the mentally-defective accused deprived petitioner of his life without due process of law.

III.

The Admission of the Confession of Sunday, March 3, 1957 Made as a Result of Psychological Pressures in the Absence of Court-Appointed Counsel Three Days After Petitioner Was Formally Charged With Murder Violated Due Process of Law.

This case, in its third phase, presents the issue of whether or not a confession extracted from a highly suggestible mental defective three days after a formal charge of murder had been lodged is inadmissible by reason of the psychological pressures used by the police in the absence of court-appointed counsel.

Culombe had been formally charged with murder on Thursday, February 28. The court appointed a Special Public Defender, Attorney McDonough, on Friday. On that day, or Saturday, McDonough saw Culombe for the first time. He had never had any contact, professional or otherwise, with Culombe before that date (T. 675).

On Sunday morning, March 3, 1957, Culombe was brought upstairs to the interrogation room in State Police Headquarters. At this time, Culombe had been under arrest for eight days. There Culombe signed a confession (State's Exhibit EE) in which it was admitted he killed the gas station attendant.

From his arrest until this confession the petitioner was never, with the exception of a night in County Jail, wholly

removed from the constant observation, influence, custody and control of those whose persistent pressure brought about the Sunday confession. Cf. *Chambers* v. *Florida*, 309 U.S. 227, 239-240. For eight days he had been interrogated by many experienced officers of the State Police. On the previous morning he had been subjected to an intensive two-hour analysis by a state-appointed doctor and psychiatrist. Within twenty-four hours Culombe had signed a revised and highly damaging written confession.

This confession came at a time when Culombe had been formally charged with murder, and when the State had appointed counsel. Attorney McDonough was not present when this confession was elicited, nor was he notified by the police that such a statement was to be taken.

There is no evidence as to whether Culombe did or did not ask to see his attorney before signing the confession. Certainly, if he had asked, and his request denied, such action would have made this confession inadmissible under the concurring opinions of *Spano*.

Assuming, *arguendo*, that Culombe did not ask for counsel, the confession is still inadmissible in the form in which it was taken.

Lieutenant Rome and other officers were present in the interrogation room of State Police Headquarters when this confession was made. The system used for constructing the confession was as follows: Rome would ask a question; Culombe would answer; Rome would paraphrase the answer in narrative form; and then this narrative was typed, read to Culombe, and signed (T. 1092).

Officer Fersch, the typist, testified that most of the language and syntax contained in the confession were those of Lieutenant Rome (T. 920). Fersch stated that the statement was not the statement of Arthur Culombe, but that of

Lieutenant Rome. Furthermore, Officer Fersch stated that he could have typed what Culombe had said, which was understandable, had Lieutenant Rome not ordered him to use Rome's words and construction (T. 920-922).

The State Police were well aware that the subject of this interrogation was a mental defective (T. 1317). They knew, from the experience of eight days' close questioning, that he was (as the psychiatrist and psychologist later verified) a highly suggestible, easily-led individual (T. 1308).

It was in this context that a confession, formed in the words and syntax of an experienced police officer bent on obtaining a confession, was signed by the illiterate petitioner. A comparison of Culombe's testimony (T. 607 ff) and the confession (T. 1094 ff) indicate the marked difference in grammar and vocabulary.

Culombe's attorney, who was not present, could not warn Culombe that statements obtained in the manner herein would tend to be partisan to the prosecution. As the esteemed Federal Judge J. Joseph Smith pertinently held in striking down a confession:

> "Statements elicited during questioning are bound to be colored to some extent by the purpose of the questioner who inevitably leads the witness in the absence of court control. This coloring is compounded where the statement is not taken down stenographically, but written out as a narrative in language supplied by the questioner. Where the state of mind of the defendant is an issue in the case, as in determining the degree of homicide, the wording of his account of the crime is of vital importance." *United States ex rel. Reid* v. *Richmond,* Civil Action 7845, Memorandum of Decision, page 7 (Dist. Conn. 13 July, 1960).

Culombe's counsel was not notified by the police that this statement was to be taken. Thus, he could not advise Culombe of the danger to one on trial for life of adopting the language of another in a statement signed by Culombe. Petitioner did not have the mental acuity to understand the need for the presence of counsel in such a situation. As Dr. Ibelle, court-appointed psychologist, testified:

> "All testing is consistent in indicating that this is clearly a feeble-minded individual whose adjustment, both personal and social could be at best marginal. His performance is that of a middle grade moron and he can be properly labeled moderately defective. In addition to being saddled with deficient mental equipment with which he must try to cope with life's problems, Mr. Culombe is also possessed of the character defect so frequently found in individuals of low intellectual caliber. He is enormously suggestible. Thus, lacking in the capacity for sufficient critical judgment his manner of thinking, his pattern of living and his way of behaving can all be easily influenced by those persons closest to him" (T. 1189).

In this case, after a formal charge of murder, the need for retained counsel became more exigent, particularly when a mentally defective, illiterate person is pitted alone against the skillful and oppressive measures of overzealous police.

It is submitted that petitioner was deprived of his life without due process of law because this confession, constructed under aggravated circumstances in the phraseology of an experienced police lieutenant in the absence of counsel, was admitted into evidence.

Conclusion

In conclusion, on the evidence, facts, and law, it is respectfully prayed that the judgment of conviction and sentence of death herein, as well as the judgment of the affirmance thereof, be reversed and set aside.

Respectfully submitted,

ALEXANDER A. GOLDFARB
*Special Public Defender and Counsel for Petitioner**

GRAEME K. HOWARD, JR.
Counsel for Petitioner

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* Grateful acknowledgment is herewith made for the assistance rendered by Thomas A. Williams, of the Yale Law School Public Defender Committee.

APPENDIX A

Conn. Stat. §195d (1955 Supp.) [now Conn. Stat. §6-49 (1958)]. *Arrest without warrant.* Sheriffs, deputy sheriffs, county detectives, constables, borough bailiffs, police officers, special protectors of fish and game and railroad and steamboat policemen, in their respective precincts, shall arrest, without previous complaint and warrant, any person for any offense in their jurisdiction, when such person is taken or apprehended in the act or on the speedy information of others, and members of the state police department or of an organized local police department or county detectives shall arrest, without previous complaint and warrant, any person who such officer has reasonable grounds to believe has committed or is committing a felony. Any person so arrested shall be presented with reasonable promptness before proper authority.

Conn. Stat. §8796 (1949) [now Conn. Stat. §54-80 (1958)]. *Public defender.* The judges of the superior court shall, at each annual meeting in June, appoint an attorney at law, of at least five years' practice and residence, in each county in the state, except New Haven county, in which they shall appoint one such attorney for the New Haven district and one for the Waterbury district, to be public defenders thereof for the ensuing year and shall, from time to time, make rules and regulations necessary for the conduct of such office. Each such public defender shall act as attorney in the defense of any person charged with crime in either the superior court or the court of common pleas for the county for which he has been appointed, when such person is without funds sufficient to employ counsel for such defense. The public defender may, in accordance with the rules and regulations adopted by the judges of the superior court, act, within the county or district for which he has been appointed, as attorney for the defense of any such

accused person upon any preliminary hearing before any court in the state or before any committing magistrate. Any vacancy in the office of public defender shall be filled by the chief justice until the next annual meeting of the judges of the superior court.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1960

No. 161

ARTHUR CULOMBE,

Petitioner

— versus —

STATE OF CONNECTICUT,

Respondent

MOTION OF CONNECTICUT ASSOCIATION FOR RETARDED CHILDREN FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE.

BRIEF OF CONNECTICUT ASSOCIATION FOR RETARDED CHILDREN AS AMICUS CURIAE.

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MOTION OF CONNECTICUT ASSOCIATION FOR RETARDED CHILDREN, INC. FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE.

The Connecticut Association for Retarded Children, Inc. respectfully moves this Court for leave to file the accompanying Brief in this case as **amicus curiae.**

The consent of the Attorney for the Petitioner herein has been obtained, but the Attorney for the Respondent herein has refused to consent to the filing of a Brief of the Connecticut Association for Retarded Children, Inc. as **amicus curiae.**

The applicant, The Connecticut Association for Retarded Children, Inc., has an interest in this case in that the Petitioner, Arthur Culombe, now under death sentence by the Courts of the State of Con-

necticut, is a mental defective with mental age nine to nine and one-half years and with an intelligence quotient of 60.

The **amicus curiae,** as an Association dedicated to the help of the retarded and the improvement of their adjustment to society, is vitally concerned with the administration of criminal justice as regards those persons who, although with the chronological age and the appearance of adults, have the reasoning faculties and intellectual capacities of young children.

The decision of the Court in this case is of vital interest and concern to the estimated 2% of our total population that is classified as mentally retarded and therefore the **amicus curiae,** Connecticut Association for Retarded Children, files this brief.

The Brief of the Petitioner herein does not comprehend or include sufficient argument pertaining to the Petitioner's peculiar status as a mental retardate and the Applicant has no reason to believe that this argument on this point will be expanded or made more complete. The peculiar status of the Petitioner as a mental retardate may well be determinative of the issues in this case.

WHEREFORE, your Petitioner respectfully requests leave to file a Brief as **amicus curiae.**

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BERNARD GREEN, ESQ.,
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Counsel for Connecticut Association for Retarded Children, as **Amicus Curiae.**

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ARGUMENT.

The use of the involuntary confession in criminal proceedings has been repugnant to civilized democratic society for as long as democratic society itself has existed. The involuntary confession has always been recognized as a potential instrument of tyranny and a device whereby the interests of justice are subverted.

This Court recently stated:

> "As important as it is that persons who have committed crimes be convicted, there are considerations which transcend the question of

guilt or innocence. Thus in cases involving involuntary confessions this Court enforces a strongly felt attitude of our society that important human values are sacrificed where an agency of the Government, in the course of securing a conviction, wrings a confession out of an accused against his will."

Blackburn v. Alabama, 361 U.S. 199.

The basic sense of justice of our contemporary civilization must necessarily be affronted by the spectacle of the conviction and incarceration or execution of a human being upon the basis of a confession, which, because of the circumstances under which it was made, was not a product of free will and therefore probably lacking in accuracy and truthfulness.

Convictions after confessions made where there was substantial question as to whether or not they constituted the free and truthful expression of an accused have been consistently reversed by this Court. **Payne v. Arkansas,** 356 U.S. 560; **Fikes v. Alabama,** 352 U.S. 191; **Chambers v. Florida,** 309 U.S. 227; **Blackburn v. Alabama,** 361 U.S. 199.

The examination of the facts and circumstances surrounding any so called confession must always be made and viewed in the light of the facts concerning the Petitioner's mentality, his experience, and his familiarity with the ways and standards of contemporary society. **Fikes v. Alabama,** 352 U.S. 191.

This Court has stated:

> "The limits (of interrogation) in any case depend upon a weighing of the circumstances of pressure against the power of resistance of the person confessing. What would be overpowering to the weak of will or mind might be utterly ineffective against an experienced criminal."
>
> **Stein v. People of New York,** 346 U.S. 156, 184.

In determining whether or not a confession taken was in violation of due process, we must consider and examine carefully the mental capacity of the person from whom the confession is taken to determine whether the pressures to which he was subjected, although perhaps reasonable in the case of the normal individual, would be so overpowering in the case of the weak minded person as to induce from him a confession that was unreliable.

Our laws relating to criminal responsibility have developed having regard to the generally accepted intellectual abilities and comprehension of the normal adult. We have developed different standards of responsibility and punishment for those members of society who are immature and without the intellect and powers of reason generally associated with the mature human being. The differentiation in application of standards is made almost exclusively on the basis of chronological age and is manifested by the treatment given the juvenile offender.

Similarly, legal protections for the individual in our democratic society have evolved in the light of those qualities of reasoning, understanding and comprehension that are generally considered normal for the mature adult. In the case of a mental retardate, lacking the equipment of the normal individual, the standards are inapplicable and the protections often inadequate.

Perhaps, as society develops a fuller understanding of the nature of mental retardation, it will also develop a peculiar system of laws to deal with persons with this abnormality. Until such time, however, criminal proceedings involving retarded persons should be carefully scrutinized to assure that their constitutional protections are preserved, their rights protected and the highest standard of criminal justice applied.

Arthur Culombe, the Petitioner in this case, was at the time of the commission of the crime alleged 33 years old chronologically but had a mental age of nine to nine and one-half and an intelligence quotient of 60 (T1180, 1289).* He was either a moron (T1182, 1187, 1283) or an imbecile (T1219). He was unable to read or write (T1181). He was easily suggestible and easily influenced (T1189, 1308-9) and acted purely under stress as to reasoning power (T1182). He left school at 16 after having spent six years in a third grade class for slow

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*(The parenthetical numbers prefaced by the letter "T" refer to the pages of the certified, three-volume transcript of the trial court proceeding entitled, "Joint Appendix of Appellants and Appellees.")

learners (T1168, 1193-4). After leaving school, he spent some time at State institutions for the retarded (T1172, 1199, 1218-20, 1223-24).

It is clear from the record that Arthur Culombe, although 33 years of age at the time of the commission of these crimes and in appearance a mature adult was, intellectually, a child.

Arthur Culombe was no more familiar with the specific provisions of the law of which he had a right to avail himself than a nine year old child would be and the whole concept of justice and legal protection was totally alien to him. In his dealings with officers of the law he was further handicapped by a severe inability to comprehend his rights and the courses of action open to him even if these rights had been spelled out for him in the clearest and simplest of terms. The nine year old mind, whether contained in the body of a nine year old child or a grown man, is not capable of comprehending, let alone availing itself of, the principles of and processes which have been developed for the purpose of protecting and restraining men who have reached the age of reason, an age which Arthur Culombe will never reach.

The petitioner, as a person mentally unequipped to understand legal rights and processes stated in even the most elementary terms, was far less able than a normal adult, to contend with any of the devices an officer of the law would use to persuade or coerce him into admitting acts in which he may or may not have taken part. He was incapable of stating precisely the nature of his participation in

such acts and was certainly unable to comprehend the severity of the consequences of a general admission. The confessions which he signed were in fact written by the police.

We must consider also the emotional condition of a mental retardate faced by interrogators. The mentally defective person, placed in a situation which he has never known, is frustrated, confused and distressed. His already severely limited powers of comprehension and reasoning are further reduced. His life molded in a pattern of inferiority and submissiveness to those who are stronger and cleverer, he cowers in the face of the all powerful authority that confronts him. Total bewilderment overcomes him, and he is completely incapable of dealing with the situation into which he has been thrust. His only desire is to please those with whom he is dealing. If a confession will satisfy his interrogators he is delighted to give it as a means of achieving acceptance and receiving approval. His immature mind is not concerned with the truth of the confession and easily ignores, if aware of them at all, the inevitable consequences.

This is true whether or not the atmosphere created is one of threats and coercion or one of congeniality created in an effort to inspire confidence and to induce a quick admission of guilt. In the latter instance the nine year old mind is no less handicapped in its dealings with the law. A mentality at this level is unable to discriminate between appearances and fact. The intellectual child, a phrase which accurately describes Culombe, is completely trusting because he has not learned the full meaning of in-

sincerity and guile. He is easily influenced and readily suggestible. He quickly succumbs to those whom he believes he has reason to trust. If he questions or protests that which he believes to be wrong or untruthful, his objections are easily overcome by more intellectually adept persons employing genuine and spurious reasoning or stating an actual fact, distortions of the truth, or utter falsehoods. If this mental defective is counselled by an officer of the law to make a certain admission or pursue a certain course of action, he has no basis in knowledge or experience upon which to reject this counsel. Nor does he have a basis for concluding that warnings or threats of the consequences of his failure to confess or to co-operate are unfounded or exaggerated. Whatever means are employed by authorities to deal with him, the nine year old mentality in a grown man is as helpless before the law as the nine year old mentality in a child. An admission of crime by a mental defective, unprotected and unadvised by counsel, can only be viewed in the same light as a similar admission by a child.

It is incumbent on criminal authorities, in the administration of justice to take every precaution to assure that the circumstances under which a confession is elicited are such that, having regard to the particular individual, it is likely to be both a free and voluntary expression and an accurate statement of the facts.

In the case of a mental retardate the criminal authorities must be held to scrupulously high standards in interrogation; perhaps the same standards that would be employed in the interrogation of a

child with, chronological age equivalent to the retardate's mental age.

The failure to adhere to such standards must necessarily result in a compromise of the rights of the individual involved and, as a necessary consequence an erosion of the rights essential to the preservation of free democratic society.

CONCLUSION.

The manner in which the confessions were elicited from the petitioner in this case were such that the Court could easily determine that they were not voluntary confessions even had the petitioner been a normal adult. The use of these confessions at the trial of the petitioner, taken as they were from a mental retardate under circumstances involving coercion, deceit, misrepresentation, and lack of counsel offends the civilized standards of the Anglo-American world and is violative of the due process clause of the Fourteenth Amendment to the Constitution.

The conviction in this case should be reversed.

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PETITION NOT PRINTED

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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1960

No. 161

ARTHUR CULOMBE,

Petitioner,

vs.

STATE OF CONNECTICUT,

Respondent.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF ERRORS OF THE STATE OF CONNECTICUT

RESPONDENT'S BRIEF

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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1960

No. 161

ARTHUR CULOMBE,

Petitioner,

vs.

STATE OF CONNECTICUT,

Respondent.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF ERRORS OF THE STATE OF CONNECTICUT

BRIEF FOR RESPONDENT

Opinion Below

The opinion of the Supreme Court of Errors is reported at 147 Conn. 194; 158 A. 2d 239 and appears in Vol. IV, Transcript of Record, p. 55 ff.

Jurisdiction

The judgment of the Supreme Court of Errors of Connecticut was entered on February 16, 1960. The petition for a writ of certiorari was filed May 12, 1960, and certiorari was granted June 20, 1960. The jurisdiction of this court rests on 28 U.S.C. Sec. 1257(3).

Constitutional and Statutory Provisions Involved

The Constitutional provision involved is the Fourteenth Amendment.

The Statutes involved are:

Connecticut General Statutes, 1955 Supp., Sec. 195d, now General Statutes, Sec. 6-49 (1958), *infra*, Appendix A, p. 1

Connecticut General Statutes, Sec. 8796 (1949), now General Statutes, Sec. 54-80 (1958), *infra*, Appendix A, p. 1

Connecticut General Statutes, Sec. 3615 (1949), now General Statutes, Sec. 54-81 (1958), *infra*, Appendix A, p. 2

Connecticut General Statutes, Sec. 8350 (1949), now General Statutes, Sec. 53-9 (1958), *infra*, Appendix A, p. 2

Connecticut General Statutes, Sec. 8351 (1949) as amended (1951), Sec. 3266d; 1957, Public Act 461, Sec. 3, now General Statutes, Sec. 53-10 (1958), *infra*, Appendix A, p. 3

Connecticut General Statutes, Sec. 8747 (1949), now General Statutes, Sec. 54-45 (1958), *infra*, Appendix A, p. 3

Questions Presented

Did the Supreme Court of Errors of Connecticut err in sustaining the trial court's finding that three confessions of the petitioner were voluntary and the facts and circumstances in connection with the confessions were not such as would make them inadmissible under the Fourteenth Amendment?

Did the Supreme Court of Errors of Connecticut err in holding that, after an accused has counsel and been advised by him, police may take a voluntary, unsolicited, gratuitous confession without first notifying his counsel?

Statement Of The Case

(The parenthetical numbers prefaced by the letter "T" refer to the pages of the Transcript of Record, Vols. I-IV.)

During the months of December 1956 and January 1957, in and around Hartford, there had been a number of robberies and atrocious holdup killings. Most of these crimes followed a similar pattern (T. Vol. IV, Finding, p. 39, par. 1).

Two of these killings occurred on December 15, 1956, in New Britain. The petitioner Arthur Culombe and his accomplice Joseph L. Taborsky were indicted for first degree felony murder, tried jointly and convicted by a jury. Both were sentenced to death.

The facts in connection with these New Britain murders are set forth in the finding of the trial court (T. Vol. IV, p. 15 et seq.) and in the opinion of the Supreme Court of Errors, the court below (T. Vol. IV, p. 58).

They may be summarized as follows:

About 6:00 o'clock on the afternoon of Saturday, December 15, 1956, Arthur Culombe, the petitioner, with Joseph L. Taborsky, both armed, drove from Hartford to New Britain intent on holding up a gas station. It was raining, freezing and sleeting. They drove to Kurp's Gas Station located on Stanley Street in New Britain. Edward Kurpiewski, the proprietor of the service station, serviced their car. During this time Taborsky announced that he wanted to go to the toilet, left the car and went into the gas station. After Culombe paid for the gas, at the point of a gun he ordered Kurpiewski into the boiler room where he shot him once, killed him, and took his wallet. Culombe then joined Taborsky in the main office of the station. They found and took some money from the cash register and the desk. During the search one Daniel J. Janowski, accompanied by his eighteen-month-old daughter, drove to the gas station. Taborsky and Culombe waited a few moments and when Janowski failed to drive away both left the station and approached the Janowski car. Culombe pretended to be a gas attendant and started to service the car. Thereupon Taborsky pointed a gun at Janowski, took his wallet containing four dollars and ordered him into the gas station, and from there into the toilet. Taborsky then shot Janowski twice on the left side of the head just above the ear,

and killed him. The child was left outside in the car. Taborsky and Culombe then drove to Culombe's house where they divided the money. Shortly thereafter the bodies of the two victims were found by a bus driver who called the police. The child was found in the car. An autopsy performed on the bodies of these two men revealed that they had died of gunshot wounds in the head.

During the investigation by the police Taborsky and Culombe were apprehended and made confessions. The foregoing facts were generally contained in the confessions (T. Vol. IV, p. 58).

From the judgments both accused appealed to the Supreme Court of Errors of the State of Connecticut and both judgments were upheld. Culombe petitioned for a writ of certiorari which was granted because of questions raised by the use of three confessions. Taborsky is not before the court.

For purposes of this hearing the facts which occurred after the murders and during the investigation are summarized.

While the investigation into all of these killings was being pursued, Joseph L. Taborsky and the petitioner Arthur Culombe as prime suspects were taken into custody Saturday, February 23, 1957.

SATURDAY, FEBRUARY 23, 1957.

At approximately 2:30 p.m., State Police Officers went to the home of the petitioner and spoke to Mrs. Culombe. At this time Culombe was in the bathroom and officers heard metallic noises coming from that room (T. Vol. I, p. 168; Vol. IV, Finding, p. 23, par. 83; p. 42, par. 3).

When the petitioner came from the bathroom, he was asked to go with the officers to State Police Headquarters.

Taborsky was already there. The petitioner and Taborsky went together with State Police officers to Coventry and Rocky Hill, Connecticut, in connection with an investigation of other crimes (T. Vol. I, pp. 169, 186; Vol. IV, Finding, p. 23, par. 85; p. 42, par. 5).

They were fed at a diner before returning to State Police Headquarters. When they returned to State Police Headquarters the petitioner was questioned for approximately one hour about guns (T. Vol. I, p. 191).

Petitioner said he had seven or eight guns at home and that he was a gun collector. He went with officers to his home at about 8:15 p.m. At his home, eight guns, some boxes of ammunition and three red bandannas were found. Mrs. Culombe was at home at this time. The officers and the petitioner returned to State Police Headquarters and the petitioner remained there that night. He was talked to after returning from his home for a short time (T. Vol. I, p. 175; Vol. IV, Finding, p. 23, par. 89; p. 42, par. 9).

At approximately 10:00 p.m. on February 23, he was placed under arrest on suspicion of having committed a felony (General Statutes, Sec. 6-49). He went to bed at approximately midnight. The questioning on this date was in connection with several different crimes and not just the New Britain killings (T. Vol. I, pp. 212, 230, 240; Vol. IV, Finding, p. 24, pars. 90, 91; p. 43, pars. 10, 11).

Petitioner told police officers that he had been in an institution for the feeble-minded and also that he could not read (T. Vol. I, pp. 264, 276).

The police knew that Culombe was an ex-convict and that he had been in the State Prison and Reformatory (T. Vol. I, pp. 261, 262, 263; Vol. III, p. 1173).

Culombe was considered by police officers to be shrewd and cunning (T. Vol. I, pp. 265, 270, 305).

SUNDAY, FEBRUARY 24, 1957

On Sunday, petitioner was questioned mostly about other crimes than the New Britain murders (T. Vol. I, pp. 176, 196, 197). The questioning occurred during the mid-afternoon and early evening (T. Vol. I, p. 439; Vol. II, p. 538). He was questioned a short time about the New Britain murders. He denied having anything to do with them (T. Vol. I, p. 273; Vol. IV, Finding, p. 43, par. 12). He was questioned by Lieut. Rome, the officer in charge of the investigation and by Sgt. Paige, a State Police officer working with Lieut. Rome. A Hartford police officer questioned him about other crimes not connected with the New Britain murders.

No teams of officers talked to him (T. Vol. I, p. 268). He was not questioned over long periods of time (T. Vol. I, p. 267).

The petitioner had seen his wife on two different times on Saturday while he was in police custody, and he did not ask her to get a lawyer for him. He never asked Sgt. Paige to get a lawyer for him (T. Vol. I, p. 193).

MONDAY, FEBRUARY 25, 1957

Petitioner was taken to the New Britain Police Department around noon on Monday, February 25, and booked on a charge of breach of peace. The bond was fixed at $25,000. (T. Vol. I, p. 248; Vol. IV, Finding, p. 43, par. 14). There were crowds around the police station when he was taken to New Britain. He was returned to Hartford to State Police Headquarters at about 2:00 p.m. He was questioned later that day by Lieut. Rome and Sgt. Paige about the New Britain matter but mostly about other crimes (T. Vol. I, pp. 248, 249, 404, 405,

440, 442; Vol. II, p. 559). Sgt. Paige talked with him about fifteen or twenty minutes (T. Vol. I, pp. 441, 442). The petitioner was questioned by Lieut. Rome for two or three hours (T. Vol. I, p. 267).

The petitioner asked Lieut. Rome about a lawyer, and the officer told petitioner he would call any lawyer that he wanted if he would tell him the name of the lawyer to call (T. Vol. I, pp. 276, 304). Petitioner never gave the police the name of any lawyer he wanted called. (T. Vol. I, pp. 276, 304, 511).

TUESDAY, FEBRUARY 26, 1957

On Tuesday morning, February 26, the petitioner was taken from Hartford to New Britain Police Court. The case was continued under bond. He wasn't required to nor did he plead. He wasn't called upon to do or say anything (T. Vol. I, pp. 296, 297; Vol. IV, Finding, p. 43, pars. 15, 16). While in New Britain, the petitioner with the police stopped at the scene of the murders. He was returned to State Police Headquarters and questioned during the early evening by Lieut. Rome (T. Vol. II, p. 550).

Lieut. Rome visited Mrs. Culombe, the petitioner's wife, at her home during the afternoon. She was asked to come to State Police Headquarters (T. Vol. I, p. 249). She came willingly. She wanted to talk to her husband (T. Vol. I, pp. 288, 289, 293, 365; Vol. II, pp. 734, 737).

Mrs. Culombe wanted to talk to her husband to question him herself about the incidents under investigation (T. Vol. I, pp. 201, 293). Lieut. Rome hoped she might help in getting a confession from her husband (T. Vol. I, pp. 370, 371). Mrs. Culombe talked to her husband (T. Vol. I, pp. 194, 203, 250, 251). The petitioner was upset when he talked to his wife and afterwards (T. Vol. I, pp. 400, 449). The Culombe children went to Headquarters with Mrs. Culombe because she wanted

them to be with her (T. Vol. II, p. 737; Vol. IV, Finding, p. 48, par. 48). The children were not present when Mrs. Culombe talked to her husband (T. Vol. I, p. 528; Vol. II, p. 549). The children saw the petitioner on some days after he had signed his confessions and at Mrs. Culombe's request (T. Vol. I, p. 528).

Sgt. Paige talked to Culombe in his cell for 15 or 20 minutes after he had seen his wife (T. Vol. I, 423, 424). He was taken to the County Jail after 8:00 p.m. (T. Vol. II, pp. 769, 770). Witnesses who saw him saw no evidence of any mistreatment of Culombe (T. Vol. II, pp. 710-716).

WEDNESDAY, FEBRUARY 27, 1957

On Wednesday morning Culombe was brought from the County Jail to State Police Headquarters at about 9:30 a.m. The new Britain Police Court adjourned mittimus committed him to the County Jail (T. Vol. I, p. 427). He wasn't questioned or talked to until approximately 1:30 p.m. (T. Vol. I, p. 380).

Sgt. Paige talked to him at that time about various crimes that were under investigation. He asked the petitioner not to lie about these crimes when questioned about them. He told petitioner to say rather than to lie that he didn't want to talk about a particular crime (T. Vol. I, p. 382). Detective Murphy also talked to Culombe, going over the same list of crimes that Sgt. Paige had. This was the first time Detective Murphy had ever talked to petitioner. Culombe responded that he didn't want to talk about each one of them. Both officers asked him about guns, and the petitioner said that the guns were under water (T. Vol. I, p. 388; Vol. IV, Finding, p. 43, pars. 17, 18).

Culombe then said he would show the officers where the guns were. He then went with four police officers to his home. He specified that they were to travel in an unmarked cruiser

or police car and he was assured that the car would have no police marker on it (T. Vol. II, p. 585). Lieut. Rome, Sgt. Paige, Detective Murphy and Detective O'Brien went with him in the car. Detective O'Brien, a stenographer, started to drive. En route the petitioner started to give a statement to Lieut. Rome. Detective O'Brien stopped the car and changed places with Detective Murphy, and Detective Murphy then drove the car. Detective O'Brien then took down in shorthand the statement which Culombe was making to Lieut. Rome. This statement taken down in shorthand by Detective O'Brien was essentially the same as was later committed to writing, as State's Exhibit Z and Z-1 for Identification (T. Vol. II, pp. pp. 565, 987). The verbal confession in the car and the written confession were made voluntarily without force, compulsion, fear or promise (T. Vol. IV, Finding, p. 43, par. 21; p. 46, par. 35).

Mrs. Culombe was at home (T. Vol. I, p. 389). Culombe showed the police where a gun and two blackjacks were hidden in back of the medicine cabinet in the bathroom. Some gun grips and other parts of a gun, being a cylinder pin and main spring, were found in a safe (T. Vol. I, pp. 390, 498; Vol. II, pp. 567, 1001; Vol. IV, Finding, p. 25, par. 103; p. 44, par. 23; State's Exhibit GG). Petitioner talked to his wife in his home and told her he was making a clean breast of things to cleanse his conscience and that he had told the police a true story. He also said that he might get life but that Taborsky would get the chair. He also said that he did not want to cause her any further embarrassment with her neighbors by the police coming to their home. He told his wife that he was afraid for her. He was afraid that Taborsky might attempt to do her harm, which was another reason for his cooperating with the police (T. Vol. II, p. 588; Vol. IV, Finding, p. 44, par. 26; p. 25, par. 104). His wife asked him how he became mixed up in these crimes and he said it was because of Taborsky (T. Vol. II, p. 589).

Culombe then directed the police to a pond near his home where he said two guns used in the New Britain job would be found (T. Vol. I, p. 391; Vol. II, pp. 960, 1003). He also said that the gun parts found in his home would fit one of the guns in the pond (T. Vol. II, p. 569; Vol. IV, Finding, p. 45, par. 27; p. 26, par. 105).

Some days later one gun was fished out of the pond by use of a potato hook and the other gun was found in the pond by use of an electro-magnet (T. Vol. III, p. 1109; State's Exhibits MM and NN).

The gun parts found in Culombe's home (State's Exhibit GG) fit the gun found in the pond (State's Exhibit NN; T. Vol. III, pp. 1119, 1125, 1126; Vol. IV, Finding, pp. 29, 30, pars. 127, 133, 134, 135, 136, 137; p. 45, par. 27).

He also pointed out a dump filled with water and stated that he had thrown a raincoat into the water after the New Britain shootings because it was splattered with blood. Detective Murphy found the coat in the water (T. Vol. II, p. 591; Vol. I, p. 391). The coat had the name, "Culombe" printed on the collar (T. Vol. II, p. 569). It had human blood spots on it (T. Vol. III, p. 1135; State's Exhibit FF; Vol. IV, Finding, p. 26, pars. 106, 107; p. 44, pars. 24, 25).

He showed the officers a culvert where wallets and keys taken from the victims in the New Britain shootings had been thrown by him. He had the officers return to his home where he showed them parts of a gun under a cabinet in the cellar. The gun parts had been mutilated by grinding (T. Vol. II, pp. 591, 961, 1005; Vol. IV, Finding, p. 26, par. 109). He took the officers to a service station and identified a black Oldsmobile which he said he used the night of the New Britain murders, and which he had previously owned (T. Vol. IV, Finding, p. 26, par. 110; p. 45, par. 29; Vol. II, pp. 571, 592). Culombe and the police officers returned to State Police Headquarters at

approximately 6:00 p.m. Culombe admitted in the presence of State Police Commissioner Kelly and Major Remer that he had participated in the New Britain crimes (T. Vol. IV, Finding, p. 45, par. 30; p. 26, par. 111).

After eating dinner the oral statements previously given were reduced to writing. Separate statements were prepared covering each crime (T. Vol. I, p. 395). The statement covering the New Britain murders was included in a statement which also covered the Leone shooting which had occurred on the same night (State's Exhibit Z-1 for Identification).

The New Britain murders and the Leone shooting were later separated (State's Exhibit Z).

The original statement (State's Exhibit Z-1 for Identification) including the other incident was committed to writing late in the evening of February 27, and the New Brtain portion of that statement was prepared at approximately 12:30 a.m. on February 28 and took approximately a half hour (T. Vol. I, p. 398; Vol. IV, Finding p. 45, par. 32; p. 26, par. 113). The method used for preparing the original statement (State's Exhibit Z-1 for Identification) was as follows: Lieut. Rome would ask a question. Culombe would give the answer. Lieut. Rome would put this answer into narrative form and the narrative would be typed (T. Vol. I, p. 502; Vol. II, pp. 572, 573). This statement (State's Exhibit Z-1 for Identification) is substantially the same as the oral statement given by Culombe in the car and taken in shorthand by Detective O'Brien (T. Vol. IV, Finding, p. 24, par. 101; p. 43, par. 21; Vol. II, pp. 564, 565, 987).

The statement (State's Exhibit Z-1 for Identification) was read to Culombe and he signed it. In the statement he admitted being present at the New Britain shootings but denied killing anyone stating that Taborsky killed both victims.

He asked the police to give a copy of his statement to the State's Attorney to show his cooperation (T. Vol. I, pp. 516, 521). He remained at State Police Headquarters that night at his own request (T. Vol. I, pp. 427, 432, 450).

At the time police commenced to question petitioner on Wednesday afternoon when he confessed, he had not been interrogated or talked to for the previous eighteen hours.

THURSDAY, FEBRUARY 28, 1957

Petitioner was arrested on Thursday on a bench warrant charging him with murder. He was presented in Superior Court and advised by the court with reference to his rights. He also was advised with reference to his right to have the public defender. He refused the public defender. He requested that Attorney Thomas F. McDonough be appointed to represent him (State's Exhibit BB; T. Vol. IV, Finding, p. 46, pars. 36, 37; p. 27, pars. 115, 116). He was advised by the court of his right to remain silent. He told the court that he wanted to cooperate with the police in any way that he could. He did not make any complaints to the court with reference to the conduct of the police.

He was remanded to the custody of the State Police for further investigation (State's Exhibit BB; T. Vol. II, pp. 1022, 1023; 1024). He was questioned by New York Police Officers later that afternoon about other crimes (T. Vol. I, p. 443). He remained at the State Police Headquarters that night at his own request (T. Vol. I, p. 510).

FRIDAY, MARCH 1, 1957

Attorney McDonough was appointed to represent Culombe. He talked to Culombe either on Friday, March 1st or Saturday, March 2nd. Culombe was kept at State Police

Headquarters because he did not wish to return to jail. His counsel did not object to this arrangement.

SATURDAY, MARCH 2, 1957

Petitioner was examined by two state appointed psychiatrists on Saturday morning. He may have talked to his counsel during the day. He was not talked to or questioned by the police.

State Police Officer Fersch, who did not know Culombe and who had never talked to him, was assigned to guard him in his cell at State Police Headquarters from 6:00 p.m. to midnight. When the officer came on duty at 6:00 p.m., he said "hello" to Culombe and then sat at the end of the cell block reading a book. No other prisoners were in the cell block and no officers or other prisoners came into the cell block.

Officer Fersch did not have any conversation with Culombe after coming on duty at 6:00 p.m. At approximately 10:00 p.m., Culombe called to Officer Fersch and told him he could not sleep because he had something on his mind he wanted to talk about. Culombe said he wanted to give the officer some information about the New Britain shooting. Culombe then orally told Officer Fersch the details of the New Britain shooting, stating that he had shot and killed the service station attendant (T. Vol. II, p. 909; Vol. III, p. 1086).

Officer Fersch reported this conversation to Lieut. Rome by telephone (T. Vol. II, p. 910; Vol. III, p. 1087; Vol. IV, Finding, pp. 46, 47, pars. 40, 41, 42; p. 28, pars. 121, 122, 123).

SUNDAY, MARCH 3, 1957

On Sunday morning, Culombe was taken to the interrogation room next to Lieut. Rome's office (T. Vol. II, p. 910). He told Lieut. Rome that he wished to change his previous

statement of February 27th (State's Exhibit Z-1 for Identification).

He then gave Lieut. Rome and Officers Moran and Fersch a new statement in which he admitted that he killed the service station attendant. This statement was the same as that orally given to Officer Fersch the evening before. The oral statement given to Officer Fersch the evening before and the written statement given on Sunday morning were made voluntarily and without force, compulsion, fear or promise (T. Vol. IV, Finding, p. 47, pars. 43, 44, 45; p. 28, pars. 124, 125, 126). The remainder of the statement was substantially the same as given by Culombe on February 27th (State's Exhibit EE; State's Exhibit Z-1 for Identification).

The petitioner's attorney was not present when the oral statement was given to Officer Fersch and was not present or notified when the written statement was prepared and signed on Sunday morning (T. Vol. II, p. 910; Vol. III, p. 1092).

On Sunday afternoon petitioner's counsel requested that Culombe be returned to the County Jail (T. Vol. I, p. 295).

MONDAY, MARCH 4, 1957

State's Exhibit Z-1 for Identification, which was petitioner's original confession given on Wednesday, February 27, 1957, included another crime (Leone) in addition to the New Britain shooting. On Sunday, March 3, 1957, the police decided to separate the two crimes and to make up a separate statement for each crime (T. Vol. I, pp. 434, 489, 491, 492, 503; Vol. II, p. 605; Vol. IV, Finding, p. 45, par. 32).

State's Exhibit Z is a statement of the New Britain shooting only (T. Vol. II, pp. 574, 995, 1009; Vol. IV, Finding, p. 47, par. 46). Counsel for the petitioner stipulated at the trial that State's Exhibit Z is a copy of the New Britain incident as it

was described in State's Exhibit Z-1 for Identification, and that State's Exhibit Z might be substituted and offered as an exhibit in place of State's Exhibit Z-1 for Identification (T. Vol. I, p. 491; Vol. II, p. 605).

The date and time on Exhibit Z was changed from 10:55 p.m., Wednesday, February 27, 1957, to 12:30 a.m., Thursday, February 28, 1957, to indicate the time when the statement about the New Britain shooting was prepared (T. Vol. I, pp. 504, 505; Vol. II, p. 1011).

On Monday, March 4, 1957, Lieut. Rome and Detective O'Brien went to the County Jail with the new statement of the New Britain affair (State's Exhibit Z; T. Vol. I, p. 505). Lieut. Rome explained the new statement to Culombe, that the new statement separated the New Britain crime from the crime committed in the Leone matter. He read the statement aloud to Culombe and Culombe said it was the same and he signed it (T. Vol. I, p. 506; Vol. II, pp. 574, 995, 1009). Petitioner's counsel was not present and was not notified that the police were to ask petitioner to sign this new statement. The petitioner was cooperative and signed the statement voluntarily without force, compulsion, fear or promise (T. Vol. I, pp. 506, 512; Vol. II, pp. 995, 1010; Vol. IV, Finding, p. 47, par. 46).

Other Pertinent Facts

When petitioner was taken into custody on Saturday, February 23, 1957, he was suspected of being involved in several murders and other crimes. The ensuing investigation carried on by the police and the questioning of the petitioner were in connection with all of these murders and other crimes. The investigation and the questioning were not limited solely to the instant case having to do with the New Britain murders. The record is replete with references to the investigation of

these other crimes. The following is a list of some of the references to the other crimes under investigation:

Transcript, Vol. IV, Finding, p. 39, par. 1

Transcript, Vol. I, pp.	175	186	212
	230	240	242
	248	259	279
	381	382	383
	384	385	388
	394	395	400
	406	407	439
	444	445	459
	461	464	470
	499		
Transcript, Vol. II, pp.	559	565	584
	726	727	

The facts stated in the confessions of Culombe were corroborated by independent evidence. The petitioner and Taborsky, his accomplice, were seen together on the day of the murders, both before and shortly after the killings. Culombe had purchased a television set on a deferred payment plan that afternoon in East Hartford. He paid in full for the set the following Monday. The seller of the television set helped him place the set in Culombe's Oldsmobile. That afternoon Culombe and Taborsky were seen removing the television set from the Oldsmobile (T. Vol. IV, Finding, p. 18, pars. 34, 35, 36; T. Vol. I, pp. 137-140; pp. 124-137). The Oldsmobile was later identified by Culombe as the car which he used to go to and from New Britain (T. Vol. IV, Finding, p. 26, par. 110; p. 45, par. 29). The body of the victim Kurpiewski was found in the boiler room with one bullet wound in the head (T. Vol. IV, Finding, p. 22, par. 79; State's Exhibit Q). He had said the attendant was shot once. Culombe remembered a little child in the car at the gasoline station (T. Vol. IV,

Finding, p. 22, par. 74). When he returned to the gas station to re-enact the crime after his confession, he said that the location of the desk and cash register had been changed. This was confirmed by other evidence (T. Vol. IV, Finding, p. 27, pars. 117, 118, 119). Two guns were found in the pond where Culombe said he had thrown them. One of the guns was a frame and certain parts of a gun found in Culombe's home fitted this gun (State's Exhibit GG; T. Vol. IV, Finding, p. 26, par. 105; p. 44, par. 23; p. 45, par. 27). A raincoat with human blood stains on it was found in a swamp where Culombe said he had thrown it (T. Vol. IV, Finding, p. 26, pars. 106, 107; p. 44, pars. 24, 25).

Taborsky, petitioner's accomplice, confessed on Friday, March 1, 1957. In his confession he never mentioned Culombe by name. He referred to him as "the other guy" (State's Exhibit DD; T. Vol. II, pp. 1035, 1036). All confessions of Culombe mentioned Taborsky by name. The confession of Taborsky and Culombe corroborated each other in the main (T. Vol. IV, pp. 58, 59).

Culombe testified before the jury for a limited purpose only (T. Vol. III, p. 1167; Vol. IV, Finding, p. 30, par. 140). He made no claim before the jury of mistreatment of his wife by the police or any mistreatment of himself.

Petitioner never has claimed that the confessions given by him were not the truth (T. Vol. II, pp. 671, 691, 696; Vol. III, p. 1167 et seq.). Culombe wanted the State's Attorney to know that he was cooperating (T. Vol. I, pp. 414, 417, 516, 521). He portrayed to the jury by cross-examination of state witnesses that he was cooperating with the police (T. Vol. II, pp. 980, 983, 995, 1042, 1043, 1044; Vol. III, p. 1097). He confessed and cooperated with the police hoping that he might get life imprisonment rather than the electric chair (T. Vol. IV, Finding, p. 44, par. 26; p. 25, par. 104).

During the investigation Culombe was treated fairly by the police. He said that Sgt. Paige treated him like a father (T. Vol. I, pp. 413, 414, 453, 454; Vol. II, p. 707). He had met Detective Murphy for the first time the very hour he confessed. He said Detective Murphy was good to him (T. Vol. II, p. 707): He received plenty of sleep and he was well fed (T. Vol. I, pp. 233, 267, 454, 693).

The State police told petitioner they would call a lawyer for him if he would tell them who to call (T. Vol. I, p. 276). He never gave the police the name of any lawyer he wanted them to call (T. Vol. I, pp. 276, 304, 511). He saw his wife at home when he was first taken into custody. He saw her again that same evening when the police returned to his home to pick up several guns. He saw and talked to his wife at State Police Headquarters on Tuesday night. He never asked his wife to get a lawyer for him (T. Vol. II, p. 706).

The petitioner was examined on behalf of the State by two court-appointed psychiatrists, Dr. Bancroft and Dr. Waterman. Dr. Bancroft had specialized in psychiatry for more than 30 years, with many years of court experience as an expert witness in criminal matters. Dr. Waterman, as a psychiatrist, had spent 35 years in state mental hospital service in New York and Connecticut. He had practiced neuro-psychiatry for many years and had testified as an expert in criminal cases (T. Vol. IV, Finding, pp. 40, 41, pars. 1, 5). At the psychiatric examination the petitioner was cooperative but indifferent. His stream of thought showed no disturbance. His replies were coherent and well constructed. Both psychiatrists were of the opinion that Culombe was a mental defective of the grade of high moron (T. Vol. IV, Finding, pp. 40, 41, pars. 2, 6, 7).

A State-appointed psychologist, Mr. Ibelle, examined Culombe both on behalf of the petitioner and on behalf of the State. He tested the petitioner's intelligence by several tests

and found him to be moderately defective. His full-scale intelligence quotient was found to be 64. His performance was found to be that of a middle grade moron (T. Vol. III, pp. 1188, 1189; State's Exhibit OO).

Dr. Doherty, a psychiatrist, furnished by the State for the petitioner, also examined Culombe. He served on the staff of several mental hospitals and was a psychiatric consultant at the State Prison. He was of the opinion Culombe was an adult with mental deficiency, without psychosis, and that he was in the moron classification. He was of the opinion he had a mental age of between 9 and 9½ years (T. Vol. III, p. 1180). He testified that intelligence tests determine basic innate intelligence but do not test experience (T. Vol. III, p. 1182). He was of the opinion that Culombe was not psychotic nor insane (T. Vol. IV, Finding, p. 41, par. 8).

Dr. Lieberson, a specialist in electro-encephalology, was furnished by the State to examine the petitioner for his defense. His examination indicated some dysfunction of the brain with no gross pathology, no evidence of tumor, and no evidence of an epileptic disorder. The encephalogram record did not show any gross abnormality. There was evidence of mild episodic deviant pattern which might be related to personality disturbance (T. Vol. III, p. 1177; Culombe's Exhibit No. 12).

Dr. Bancroft was of the opinion that it was impossible to liken Culombe, an adult man 33 years old, as similar to a mental capacity age group of 9 to 9½ years because he had had considerable experience in the world. He had increased in physical size, had come in contact with many things as a man, had been married, living with his wife, working, supporting his children, and paying his bills (T. Vol. IV, Finding, p. 41, par. 3; T. Vol. III, pp. 1305, 1306).

Culombe never made a motion for a separate trial. In fact, he desired to be tried with Taborsky so as to claim he was dominated by, influenced by, and in fear of Taborsky. He refused to have Taborsky's name deleted from Culombe's confessions (T. Vol. II, pp. 953, 954, 955, 970, 981, 982, 983).

Culombe testified before the court without the jury on the admissibility of his confessions and claimed his wife was mistreated by the police. His wife testified before the court without the jury that she was always treated fairly by the police (T. Vol. II, pp. 737, 744). It was testified that she voluntarily went to Police Headquarters at the request of police because she wanted to talk to her husband (T. Vol. I, pp. 289, 293, 365). Nothing was done by the police to Mrs. Culombe or the children to cause Culombe anxiety or to reduce his resistance or will power or to influence him to confess (T. Vol. I, pp. 288, 289, 293, 365; Vol. II, pp. 734, 737; Vol. IV, Finding, p. 48, pars. 47, 48, 49, 50).

Mrs. Culombe talked to her husband at police headquarters and was disturbed because he might be involved in the crimes under investigation (T. Vol. I, pp. 250, 251).

Mrs. Culombe was reluctant to testify on behalf of her husband. She refused to respond to a subpoena by petitioner's counsel and a capias had to be issued to bring her to court (T. Vol. I, pp. 387, 432; Vol. II, p. 744). Mrs. Culombe did not testify before the jury.

Summary Of Argument

1. A confession given by a mentally defective suspect in custody, after fair but extended questioning, during an investigation of several murders and other crimes, while he is without counsel does not under the particular circumstances violate the due process clause of the Fourteenth Amendment.

2. An accused who has counsel, has talked to and been advised by him, may at the request of police voluntarily sign another copy of a confession previously given, even though his counsel is not notified or present, and such conduct does not violate the Fourteenth Amendment.

3. A second confession by an accused, already arrested and charged with murder, given freely without interrogation or solicitation to a strange police officer two days after he has been presented in court and warned of his rights, and after he has counsel, has consulted and been advised by him, does not violate the due process clause of the Fourteenth Amendment, even though such confession is given to police without his counsel being notified or being present.

4. If a first confession shall be held to be coercive in the constitutional sense, the conviction should not be reversed on the ground it was given to the jury for its acceptance or rejection, when there is other substantial evidence, particularly a voluntary second confession, upon which the verdict may stand.

ARGUMENT

I.

The Confession made Wednesday, February 27, 1957, was Voluntary and Its Use Did Not Violate the Due Process Clause of the Fourteenth Amendment

The test of voluntariness is "whether the accused, at the time he confesses, is in possession of 'mental freedom' to confess to or deny a suspected participation in a crime."

Lyons v. *Oklahoma*, 332 U.S. 596, 602; 88 L. ed. 1481; 64 S. Ct. 1208 (1944)
Ashcraft v. *Tennessee*, 322 U.S. 143, 154; 88 L. ed. 1192; 64 S. Ct. 921 (1944)

Connecticut has long used the "orthodox" rule of procedure to test and determine the admissibility of confessions. Under this method the entire responsibility for deciding the admissibility of the confession rests exclusively with the trial judge as a matter of the competency of the evidence, and leaves to the jury its credibility.

3 *Wigmore on Evidence*, Sec. 861

This method generally provides the greatest protection to an accused because the trial judge's finding can be tested on appeal after a clean-cut adjudication of the issue of voluntariness.

See Meltzer, *Involuntary Confessions*, 21 Un. Chic. L. Rev. 317,

Before any of petitioner's confessions were admitted into evidence, the court, without the jury, conducted a preliminary hearing which lasted for four court days (T. Vol. IV, p. 63; Vol. I and Vol. II, pp. 381-773; Vol. II, pp. 907-924). All witnesses having knowledge of petitioner's custody and question-

ing, including police officers, jail guards, other prisoners, and jail physician, were examined at length in connection with the treatment of the petitioner. The officers were subjected to exhaustive and extended cross-examination. The petitioner testified in his own behalf. His wife was subpoenaed and was finally brought to court to testify in his behalf after a capias issued. The trial court made a specific finding in connection with the admissibility of the confessions (T. Vol. IV, Finding, II B, p. 41 et seq.).

After this lengthy preliminary hearing the trial court ruled that the confessions were not the result of coercion and were admissible. The trial court only determined that the confessions were voluntarily made, and left to the jury the weight and credibility to be given to them. The court charged the jury as to their right to determine what weight or credibility was to be given to them under all the circumstances, or to reject them entirely if found by them to be involuntary (T. Vol. IV, pp. 1469, 1470).

On review by this court of State court convictions, those matters usually termed issues of fact are for the conclusive determination of the State courts. Where there is conflict in the testimony as to what led to a contested confession, the determination of such conflict is not the concern of the Supreme Court. Such conflict comes to this court authoritatively resolved by the State's adjudication. But those elements of the events that took place in this case that are undisputed by the respondent State of Connecticut are relevant to the issues of due process. As to those elements the respondent welcomes an independent examination of the record.

Watts v. *Indiana*, 338 U.S. 49, 52; 93 L. ed. 1801, 1804; 69 S. Ct. 1347, 1357, (1949)

Cicenia v. *LaGay*, 357 U.S. 504; 2 L. ed. 2d 1523; 78 S. Ct. 1297 (1958).

(1) *Mental Defectiveness*

The State of Connecticut concedes that petitioner is moderately defective of the classification of middle or high grade moron. Police officers knew or were told by him that he could not read or write other than his name. He also told them he had been in a school for the feeble-minded. He was tested and found to have an I.Q. of 64. He was examined by three experienced psychiatrists ,a psychologist, a physician specialist in electro-encephalology, all furnished at the State's expense. Petitioner testified before both the court and jury.

The police also knew him as a dangerous ex-convict who had been in the State Prison and in reformatories. He was considered by police to be shrewd and cunning.

Although petitioner is classified as a moron, he does not suffer psychosis. His stream of thought showed no disturbance, his replies to questions were coherent and well constructed. He had much worldly experience, including much criminal experience.

The court and the jury had before them a realistic picture of the petitioner.

The mental equipment of the petitioner is a circumstance to be considered by the court in determining whether a confession is voluntary. However, the trial court and the jury have had the best opportunity to size up the man. This was a trial which lasted three months, including the lengthy hearings on change of venue and the weeks required to select the jury. The trial itself lasted approximately five weeks. Every tactic was tried to convince the jury that the petitioner was a child of tender years. But all experts testified that his tested innate intelligence did not measure his experience. From experience he was a hardened callous criminal who knew the ways of crime and the ways of police detection.

It is the respondent's position that petitioner was not coerced, that his confessions were voluntary, and that his mental status was only a condition and not a cause of his statements. Such condition had nothing to do with his confessions. That such is the fact will be manifest in the light of details hereinafter catalogued. Despite petitioner's claims of being mentally defective his counsel, as the factual basis for his arguments, cites petitioner's own testimony more than *fifty* times. He seems to be working both sides of the street.

(2) *Sustained Interrogation*

Petitioner claims that the police commenced the questioning with the object of obtaining a confession. What is wrong with that? It is the duty of law enforcement officers, acting fairly, to obtain confessions and to see that the guilty are apprehended.

There is no quarrel with the claim that petitioner was taken into custody at 2:30 p.m. on Saturday, February 23. He confessed at approximately 3:30 p.m. on Wednesday, February 27. But as to what happened each day, the respondent State of Connecticut respectfully asks the court to examine its statement of the case. The petitioner takes careless editorial license with the facts as shown in the record.

He blithely states the questioning was in intervals of three to six hours. Where does that appear in the record? He relates that the questioning was in relays by teams of police. His record citation will bear out that the teams of police were only designated to pick up the accused and his accomplice Taborsky. There never was any questioning by relays or teams. There never was any continuous exhaustive questioning. He was questioned only during normal hours (T. Vol. I, pp. 267, 268).

Petitioner never claimed he was treated unfairly. He said that Sgt. Paige treated him like a father (T. Vol. I, pp. 413,

414, 453, 454; Vol. II, p. 707). He received plenty of sleep and he was well fed (T. Vol. I, pp. 233, 267, 454, 693). He appeared in Superior Court on February 28 before Judge Bordon. He never made any complaint to the court about his treatment. On the contrary he said he wanted to cooperate with the police in any way that he could (State's Exhibit BB; T. Vol. II, pp. 1022, 1023, 1024).

Petitioner alludes to physical violence but that claim seems to be abandoned. There was no physical violence nor evidence of any. He was not kept incommunicado. He saw his wife at least three times between Saturday afternoon and Tuesday night.

The reason for the extended time for questioning is that the police were investigating not only the New Britain murders, but several other separate crimes and murders which the petitioner was suspected of having committted. The investigating officers had to go out to follow up leads. All items of information had to be checked out. All of this took time and work (T. Vol. I, pp. 446, 452, 455).

Why did Culombe confess on Wednesday? He confessed voluntarily because he wanted to make a clean breast of things. He hoped to get life and save himself from the electric chair. He expected his accomplice to get the electric chair but that he would not because he cooperated. He told all this to his wife on Wednesday afternoon when he confessed. He wanted the State's Attorney to be given a copy of his statement to show his cooperation. The next day he made no complaint in court about abuse or pressures. But the most significant fact which devastates his claim of coercive treatment is that during the trial he never testified before the jury about such conduct. He took the stand before the jury—but never mentioned any of the circumstances he now claims are violative of his rights. He never claimed that his confession resulted from mistreat-

ment or that he was mistreated. He portrayed before the jury the picture of a nine-year-old who was cooperating and helping the police; the picture of the docile mental defective under the domination and influence of Taborsky. His new tactics in this proceeding demonstrate his desire for a second bite of the apple.

The questioning was fair and reasonable. Such interrogation is an indispensable instrumentality of justice. It is necessary in order to protect society from the criminal.

Ashcraft v. *Tennessee, supra*, at p. 160

(3) *Illegal Police Procedures and Delaying Tactics.*

A confession is not inadmissible as violative of due process merely because of delay in appearance of the accused before a proper tribunal.

Lyons v. *Oklahoma, supra* (illegally detained 16 days); *Gallegos* v. *Nebraska*, 342 U.S. 55; 96 L[redacted]86; 72 S. Ct. 141 (1951) (illegally detained 25 days)

The failure of the state authorities to comply with local statutes requiring that an accused be promptly brought before a magistrate does not render involuntary a confession of one detained by police. *Fikes* v. *Alabama*, 352, U.S. 191; 1 L. ed. 246; 77 S. Ct. 281 (1957) It is a factor that may be considered in the light of all the circumstances.

The question is whether, under these and other circumstances of the case, that conduct induced the accused to confess. Unless it did, it cannot be said that the illegality vitiated his confessions. Culombe at the time of the confessions did not think his detention was illegal. He did not think or know there might be anything technically wrong with holding him at the police barracks or removing him from the jail to the barracks. Thus, no irregularity in the detention, had there been any,

could have induced or contributed to the inducement of, the confessions.

State v. Rogers, 143 Conn. 167, 173; 120 A. 2d 409 (1956)
State v. *Guastamachio*, 137 Conn. 179, 183; 75 A. 2d 429 (1950)
State v. *Zukauskas*, 132 Conn. 450, 459; 45 A. 2d 289 (1945)
State v. *Buteau*, 136 Conn. 113, 123; 68 A. 2d 681 (1949)

The Court was warranted in concluding that the confession and admissions of the accused were not the result of any illegal detention. The State claims that at no time during these proceedings was Culombe illegally detained. In *State* v. *Buteau*, supra, at 122, the Court stated:

> "Neither the constitution of the United States nor the constitution of Connecticut requires that one arrested for a crime shall be promptly taken before a committing magistrate; all they provide is that he shall have the right to 'a speedy and public trial'; U.S. Const. Amend. VI; Conn. Const. Art. 1 Sec. 9; and the requirements in effect in the federal courts that one arrested shall be promptly presented before a 'committing magistrate' is the result of a rule they follow. *Upshaw vs. United States*, 335 U.S. 410, 411, 69 S. Ct. 170, 93 L Ed. 129."

Nevertheless, if any of the activities of the police in connection with Culombe should be found to constitute illegal detention, such detention is of no import with respect to the admissibility of the confessions in the absence of a causal connection between such detention and the confessions. The trial court found that the confession was voluntary and that there was no causal connection between it and any unlawful detention of Culombe (T. Vol. IV, Finding, pp. 46, 47, pars. 35, 39, 41-46). This conclusion follows the rule stated in *State* v. *Buteau*, supra, 123:

"Our rule * * * * is that the fact of illegal detention at the time a confession is made does not render it inadmissible unless that fact is causally connected with the securing of the confession."

(4) *Use of Wife and Family*

This claim of petitioner is based on alleged facts which are not found or proven and the occurrence of which are emphatically denied by the State. There is nothing in the record to show that the children saw their father before the confessions. The trial court found that Mrs. Culombe had come voluntarily to police headquarters with her children whom she did not want to leave alone. She was attended by a policewoman who was a nurse. She was well treated and at no time was she used or were the children used to bring pressure on Culombe (T. Vol. IV, p. 66, Finding, p. 48, pars. 47, 48, 49, 50; Vol. II, pp. 734, 735, 737, 738, 739, 942). The wife of a suspect is a legitimate and likely subject of police inquiry.

Where there is a dispute as to whether the acts charged as coercive actually occurred, or where different inferences may fairly be drawn from admitted facts, the trial judge and jury are not only in a better position to appraise the truth or falsity of the assertions of petitioner from the demeanor of the witnesses, but the legal duty is upon them to make the decision.

Lisenba v. *California*, 314 U.S. 219; 86 L. ed. 166; 62 S. Ct. 280 (1941).

Mrs. Culombe didn't testify before the jury. She was a reluctant witness for her husband before the court and she admitted in her testimony the essential facts found by the court. The petitioner takes nothing with this claim.

(5) *Language of Confession*

This argument can be disposed of summarily. The petitioner made an oral confession Wednesday afternoon in the

car to Lieut. Rome. Sgt. O'Brien, a stenographer, took down in shorthand exactly what he said. That story taken verbatim is essentially the same as appears in his written confessions (T. Vol. II, pp. 565, 987; Vol. IV, Finding, p. 43, par. 21; p. 46, par. 35). Virtually the same story was given orally to officer Fersch on Saturday night (T. Vol. II, p. 909; Vol. III, p. 1086). The confessions did not fit the facts known to police. The police were directed to facts supplied by the confessions. The same details appear in all confessions.

(6) *Lack of Counsel*

From the time Culombe was taken into custody on Saturday afternoon, February 23, he had abundant opportunity to call an attorney. The police offered to call any attorney he would name but he named none. He saw his wife twice Saturday, February 23, while he was in custody. He saw her at police headquarters at least once before his confessions. He never requested his wife to call a lawyer for him (T. Vol. II, p. 706).

His appearance at New Britain for booking at police headquarters was not a hearing, and for it he did not require counsel. His appearance in police court in New Britain did not jeopardize his rights. He was not required to, nor did he, enter any plea. Culombe seems to claim that as soon as he was taken into custody he should have had counsel furnished by the state. Such a holding would mean that police could not question a suspect during an investigation before he has a chance to obtain counsel. There is no such inflexible rule. *Cicenia* v. *LaGay*, supra, p. 509.

Lieut. Rome told Culombe he would call any lawyer he wanted, but he named none. Police officers are not required to select a lawyer for a defendant. He must make his own choice. Culombe could have asked his wife at any time to call him any lawyer he wanted. If the police ever selected a lawyer for a defendant there would be criticism of the choice or claim of

collusion. The claim would be made that the choice of a lawyer by police was violative of due process.

A. *At what state of the proceedings is an attorney required?*

No real decision has been made as to when an accused must have an attorney. The question is one of fact. 146 A. L. R. 369; 42 Col. L. R. 271

The basic upholding of right to counsel was in the "Scottsboro" case, *Powell* v. *Alabama* 287 U.S. 45; 77 L. Ed. 158; 53 S. Ct. 55 (1932); but from arrest through trial consumed only six days, and this case has not factual relevance to this case. The Fifth Circuit Court's rule is fluid in that there is no automatic requirement of counsel at absolutely every stage of the proceedings.

Martin v. *U.S.* 182 F. 2d 225, 228 (1950)

Habeas corpus was denied by the Second Circuit Court where petitioner was forced to plead, after arraignment, without counsel since there was no showing of real denial of due process.

DeMaurez v. *Swope*, 104 F. 2d 758, 759 (1939)

Spano vs. *New York* 360 U.S. 315; 3 L. Ed. 2d 1265; 79 S. Ct. 1202 (1959), can be distinguished because there the accused was indicted for murder, trial scheduled, counsel hired and consulted, and then the accused was held incommunicado, subjected to third degree, and fraudulently tricked into the resultant confession that was used in evidence.

B. *The Claimed Irregularity Must Have Prejudiced Accused's Case*

This basic rule requires the showing of prejudice as a prerequisite for claimed denial of right to counsel. *Crooker* v. *California* 357 U.S. 433; 2 L. Ed. 2d 1448, 1454; 78 S. Ct. 1287

(1958); *DeMaurez* v. *Swope*, supra; 146 A. L. R. at page 425, and cases cited therein, especially *Voight* v. *Webb*, 47 Fed. Supp. 743 (1942), where the court said:

> ". . . the possibilities of prejudice must have been sufficiently substantial so as to have taken them out of the realm of gossamer shadows."

The courts are concerned with such questions, of course, but there is no denial of due process if the record satisfies them that no prejudice to the accused resulted. *Harley* v. *U.S.* 242 F. 2d 27, 28 (C.A.D.C. 1957). This is emphasized by the *DeMaurez* opinion because the petitioner had pleaded not guilty and upon trial was represented by counsel.

Note particularly Judge Rifkind's opinion in *U.S. ex. rel. Mitchell* v. *Thompson*, 56 Fed. Supp. 683 (D.C.S.D. N.Y. 1944) which stated that the accused well knew with what he was charged and why he was detained (687); and nothing in the record showed any avenue of investigation nor line of evidence which might have been produced to his advantage (688).

C. *Need for Orderly Criminal Procedure*

Despite the general rule—undefined—of *Powell* v. *Alabama*, *supra*, and *Johnson* v. *Zerbst* 304 *U.S.* 458; 82 L. Ed. 1461, 1466; 58 S. Ct. 1019 (1938), that the "guiding hand of counsel" is required "at every step in the proceedings against him", the latter opinion makes particular note of the presumption of regularity of the judgment of a trial court.

The record in this case shows that full and complete hearing was granted on all matters presented. *Torrence* v. *Looney* 233 F. 2d 715, 717 (C.A. 10, 1956). Perhaps this Culombe case is an instance of the thinking of Judge Clark in *U.S.* v. *Mitchell*, 137 F. 2d 1006, 1011 (C.A. 2, 1943), that the accused takes an action of shifting position during trial because of the "damaging nature of the case against him".

The opinion in *Crooker v. California*, supra, is pertinent (italics actually appear in the opinion):

> "Petitioner . . . would have every state denial of a request to contact counsel be an infringement of the constitutional right *without regard to the circumstances of the case.*" (440)
>
> (Culombe did ask for counsel during investigation, but named none.)
>
> ". . . such a doctrine would create a complete anomaly since nothing would remain that could be corrected on new trial." (440) "Refusal by state authorities of the request to contact counsel necessarily would then be an absolute bar to conviction."

If anything occurred which did effect his rights, the rule sought for would still have a

> "devastating effect on enforcement of criminal law, for it would effectively preclude police questioning—*fair as well as unfair*—until the accused was afforded opportunity to call his attorney." (441)
>
> "Due process . . . demands no such rule." (441)

Under the law an accused is entitled to counsel to aid him in his defense, not to prevent voluntary action on his part. *State vs. Bunk*, 4 N.J. 461, 470, 73 A. 2d 249 (1950).

The rule in Connecticut is that an accused has no constitutional right to counsel before arraignment. *State* v. *Rogers*, supra, 172. See 3 A. L. R. 2d 1003, 1032 et seq. This court has often recognized that it is of "the very essence of our federalism that the states should have the widest latitude in the administration of their own systems of criminal justice." *Cicenia* v. *LaGay*, *supra*, p. 510 citing *Hoag* v. *New Jersey* 356 U.S. 464. 468, 2 L. ed. 2d 913, 918, 78 S. Ct. 829 (1958); (T. Vol.

IV, p. 62). The test to be applied is "whether petitioner's denial of counsel at pretrial stages so prejudiced him that it infected his subsequent trial with an absence of 'that fundamental fairness essential to the very concept of justice.' " *Crooker* v. *California*, *supra*, p. 439. Upon all the circumstances the petitioner was not unlawfully denied counsel (T. Vol. IV, pp. 62, 63).

II.

The signing on Monday, March 4, 1957, of another copy of his confession previously given, after he had counsel and consulted him, even though his counsel was not notified or present, did not make such confession inadmissible as violative of due process.

Because a defendant has counsel, the police are not prohibited from continuing their investigation in connection with the crime for which he is held. Police have a right to ask him questions and to use whatever information the defendant may voluntarily offer.

Petitioner was arrested on a bench warrant, charging murder and had appeared in court on Thursday, February 28. He had been warned of his rights by the court. Counsel had been assigned to him and had consulted with him and advised him. He had not been indicted for murder as required by statute (G. S. 54-45, *infra*, Appendix A p. 3). On the following Monday the police requested petitioner to sign another copy of his confession previouosly given to police. The copy omitted a portion of the first confession relating to another crime. Other than that change, it was the same confession previously signed. Petitioner voluntarily signed it without his counsel being present (State's Exhibit Z.)

Petitioner has injected into this issue the unfounded claim of trickery. The basis for this is testimony of the petitioner as appears in T. Vol. II, p. 677, as follows:

"I *believe* I said that my attorney didn't want me to sign anything and to let me alone, and he says, 'He knows about this and I guess it is all right', *or something or another.*" (emphasis supplied)

This equivocal self-serving testimony is in contrast to the forthright testimony of Lieut. Rome and Detetive O'Brien as appears in T. Vol. I, pp. 505, 506, 512; Vol. II, pp. 574, 995, 1009, 1010, and the Finding by the court, T. Vol. IV, Finding, p. 47, par. 46.

Nothing further need be said about this baseless charge of trickery. He has reached the bottom of the barrel.

Petitioner claims that once he was arrested on the bench warrant he was then beyond the sphere of police investigation. He likens his invented facts to *Spano* v. *New York*, supra. He cannot shape the cloth to fit the mold.

There is no trickery as in *Spano*. He was only arrested, not indicted as in *Spano*. There was no questioning or interrogation of petitioner. No new information was requested or solicited. He was told what the statement was, why it was prepared, and it was read to him. He said he understood it and it was correct, and he signed it. At the trial petitioner's counsel stipulated to use this confession (State's Exhibit Z) rather than the original confession (State's Exhibit Z-1 for Identification).

The defendant had been advised by his counsel. In fact, on the day before, the defendant had signed a second confession that he had gratuitously offered to a strange police officer. His counsel asked that he be removed to the jail and he told him not to sign any paper or give any statements (T. Vol. II, p. 676). In spite of that advice by his counsel he voluntarily signed the statement. He does not have to follow his counsel's advice. He was cooperating, hoping for leniency. Whatever his motive, he had the free choice to admit, deny, refuse to

answer, sign or refuse to sign. This conduct of Culombe demonstrates that he was doing all he could, hoping to escape the electric chair.

This particular incident is significant because it is a circumstance surrounding the original confession which occurred subsequently to it, indicating that the original confession was voluntary. Such subsequent conduct may be properly considered on the question of voluntariness of the first confession.

Haley v. *Ohio*, 332 U.S. 596; 92 L. ed. 224; 68 S. Ct. 302 (1948)

III.

The Second Confession Signed on Sunday, March 3, 1957, while Defendant Was Under Arrest and Charged With Murder, Given Freely Without Interrogation or Solicitation to a Strange Police Officer Two Days After He Was Presented in Court and Warned of his Rights, After He Had Counsel and Had Consulted and Been Advised by him, Did Not Violate The Due Process Clause of the Fourteenth Amendment, Even Though Such Confession Was Given To Police Without His Counsel Being Notified or Being Present.

If the first confession of Wednesday, February 27, 1957 (Exhibit Z-1 for Identification) is found to be voluntary there can be no serious question but that the second confession of March 3 is clearly voluntary. That confession was gratuitously given by the petitioner orally on Saturday night, March 2, to a strange police officer who had never talked to him, who had never questioned him, and who had never had any part in the investigation of these crimes. At the time that the confession was made nobody was talking to the petitioner and no one had been talking to him. As a matter of fact, since the previous Thursday afternoon, when New York police officers talked to him about some other offense, the petitioner had not been interrogated or questioned by police officers at all. He

had talked to his counsel and been advised by his counsel. On Saturday morning some two hours had been spent talking to psychiatrists, but the psychiatrists were not investigating the the charges for which the petitioner was being held. That this confession was voluntary is also apparent because Culombe told Officer Fersch at 10:00 o'clock at night that he couldn't sleep because he had something on his mind and wanted to talk about it. When the officer came to his cell petitioner blurted out the details of the New Britain killings. He said that he had killed the service station attendant (State's Exhibit EE). Officer Fersch at this time did not know anything about the details of the New Britain killings as he had not been working on the investigation.

This confession was made by Culombe because of the weight of the crime on his conscience. He made this confession after he had been advised in open court with reference to his rights and after he had counsel, had talked to his counsel and been advised by his counsel. It is true that he had been arrested on a bench warrant and charged with murder, but up to this point he had not been indicted nor had he been arraigned.

Even though he had counsel, such fact alone does not prohibit the police from listening to a voluntary and freely offered statement. If a defendant under arrest and in custody wants to start talking to authorities, the fact that he has a lawyer does not prohibit the authorities from listening to whatever the defendant desires to say. Under the circumstances a police officer who would refuse to listen to what the defendant offered would be violating his oath of office. Officer Fersch had no alternative other than to act as he did.

The trial court made a specific finding that the second confession of March 3 and the oral confession given to Officer Fersch the night before were voluntary (T. Vol. IV, Finding, p. 47, pars. 43, 44, 45). Petitioner gave the second confession

without interrogation or solicitation, to a strange officer, after being warned by the court and advised by his counsel. He just wanted to confess. He had decided it was a wise course to confess, to cooperate and to hope for leniency. He gave this confession orally on Saturday night and gave a written confession the next morning.

This second confession is another circumstance subsequent to the first confession that indicates the character of, and motivation for, the first confession. This subsequent conduct confirms that the first confession was voluntary and that Culombe confessed originally "to save his neck". He wanted to confess, as much so after he had counsel and had been warned in court, as before. *Haley* v. *Ohio, supra.* This second confession was materially similar to the first confession in every respect except petitioner admitted he killed the service station attendant. This second confession, and the circumstances in connection with it, can be considered by the court in weighing the question of voluntariness of the first confession.

Gallegos v. *Nebraska, supra.*

It is respectfully requested that the court make a determination as to whether this second confession is voluntary, even if the court shall find that the first confession is involuntary.

With reference to the second confession the claim is made that since petitioner was under arrest and already had a lawyer, the police had no right to talk to him. The police have a right to talk to a defendant at least to the time of his arraignment.

Crooker v. California, supra
Cicenia, v. La Gay, supra

The defendant had not been indicted when he gave his second confession. The fact that he was talked to at defend-

ant's own request, after he had a lawyer, without his lawyer being notified or being present, is at most an ethical question. Certainly it is not a constitutional question.

IV.

The Conviction should Not Be Reversed Where, Under Connecticut Procedure, The Jury Was Given The First Confession For Its Acceptance Or Rejection, Even Though It Is Found To Be Constitutionally Coerced, And There is Sufficient Substantial Evidence In The Second Confession To Support A Conviction.

Under the confessions procedure used in Connecticut the determination by the trial judge, without the jury, that the confessions were made freely and voluntarily is a finding on a preliminary question of fact. The conclusion was drawn from conflicting testimony in the discretion of the trial court. The exercise of that discretion under Connecticut law is not a ground for review unless the appellate court can see plainly that the discretion was abused.

State v. *Willis*, 71 Conn. 293; 41 A. 820 (1898)
State v. *Cross*, 72 Conn. 722; 46 A. 148 (1900)

The trial court, after admitting the evidence, leaves to the jury what weight they think it should have. The jury are the triers of the persuasive sufficiency of all evidence submitted for their consideration. Under the charge the jury again considers whether the particular confession was voluntary. The jury passes on this evidence according to its intrinsic value in the mind of the jury and not according to some legal definition.

3 *Wigmore*, Sec. 862

In connection with the confessions the court charged the jury as follows:

"You will recall that the State has offered in both cases, in evidence, testimony as to statements made out of court by the accused, which it claims were in the nature of a confession or admission by him or them tending to show his or their guilt of the crime charged, and that you were excused while I considered the question of its admissibility. That I did hold the testimony to be admissible, you know. Let me now caution you that this ruling on my part meant no more than that in the performance of my duty I concluded that the circumstances surrounding the making of these statements were such that you should have them before you for your consideration, that my ruling is not to be taken by you as giving to those statements any more weight in your deliberations than you conclude that they should have."

(T. Vol. III, p. 1469)

"The confessions of the accused which have been admitted as evidence are to be considered by you in connection with all the other evidence in the case. Made as it was out of court, it is not like the sworn testimony offered before you. It is to be considered by you as a declaration inconsistent with the accuseds' plea of not guilty. It may be, however, if you consider that it or any one of them were made by the accused, evidence, circumstantial in its nature, of the truth of the statements made in it. It is for you to determine what weight is to be given to it, and in that connection you should consider the circumstances under which it was made as they appear in the evidence before you."

(T. Vol. III, pp. 1469, 1470)

"You are to consider whether or not in your opinion these statements were made voluntarily and were not obtained by violence or because of fear or duress so that they are likely to be false, and if you so consider that they

were made voluntarily you may consider what weight should be given to them in accordance with the instructions which I have already given you."

(T. Vol. III, p. 1470)

Under this charge to the jury this question is necessarily raised:

When the court determines that the confession is admissible, does the court determine, as a matter of law, that the confession was voluntary, or does the court determine merely that there was evidence from which the jury could find that it was voluntary?

When the court permits the confession to be admitted the defendant may still claim before the jury that it was involuntary.

In this case, before the jury, the defendant did not claim that any confession was involuntary. Before the jury, after the confessions were admitted, the defendant did not even cross-examine state witnesses as to coercion. The defendant did not call any witnesses before the jury to prove coercion. After the confessions were admitted the defendant portrayed to the jury only that he was cooperating with the authorities. He testified himself only for a limited purpose, and never claimed any mistreatment. He never claimed his confessions were coerced. He did not call his wife to testify before the jury (T. Vol. III, p. 1167; Vol. IV, Finding, p. 30, par. 140; Vol. II, pp. 980, 983, 995, 1042, 1043, 1044; Vol. III, p. 1097).

Therefore, on a question of the credibility and persuasive sufficiency of the evidence, and in a matter the determination of which the jury were specifically charged—namely, whether the confessions were made voluntarily and without duress or coercion—the defendant in effect conceded that the confessions were voluntary.

The jury could have found that both the first confession and the second confession were voluntary. The jury could have found an absence of coercion in both confessions. But even if the jury had rejected the first confession, a conviction could be based constitutionally on the other sufficient evidence of the second confession. There is no way to get an explanation by the jury of a general verdict in criminal cases. There is a presumption that the jurors followed instructions.

The facts in the instant case come within the rule of *Stein* v. *New York*, 346 U.S. 156; 97 L. ed. 1522; 73 S. Ct. 1077 (1953). Stein decided that a jury may be properly exposed to a confession which they might have found to be coerced, but the jury might have also found the same confession to be voluntary.

This court has long held that the states are free to allocate functions between judge and jury as they see fit. If the standard of due process is that a conviction cannot stand when based on inherently untrustworthy evidence, the jury, under the Connecticut rule of procedure, may consider this question. In this case the jury heard no claims of pressure or coercion and no evidence to indicate to them that any of the confessions might be false. They had a right to find the first confession voluntary as well as the second.

If the standard of due process is that the questioning of defendant fell below the standards of fair play, and the police methods in themselves offended due process, then under Connecticut procedure the conviction still may stand on other substantial evidence even though the court finds that the first confession failed to meet this standard. Such a holding will extend the Stein rule to those cases where the test of voluntariness is whether the police methods were inherently offensive. In such a situation where the jury has the question of voluntariness given to them, their verdict, arrived at after

seeing and hearing all the witnesses, ought to be as constitutionally sound as the decision of the court, based on judge created standards of due process, arrived at from a cold record.

The court sometimes may be seriously misled in passing on the standards of due process, such as in the instant case. The petitioner vigorously claimed unfair police methods before the court in the absence of the jury. The trial court obviously did not believe all the claims of petitioner and decided that the question of voluntariness ought to be before the jury, and he admitted the confessions for the jury's acceptance or rejection. What happened before the jury? The petitioner changed his tactics completely, and portrayed before the jury a picture of cooperation with the police, a picture of one who had helped police solve the crimes, and particularly helped to break the case of his accomplice Taborsky. Does not the jury have a better opportunity to evaluate the changing claims of the petitioner and to decide whether under the circumstances he got a fair shake from the police?

The court may well apply both standards to measure due process. Under state procedures such as used in Connecticut, the jury actually applies the standard of trustworthiness of the evidence under general jury instructions, and actually applies the standard of fair play by using their good common sense and experience in weighing evidence from live witnesses.

It is the position of the respondent State of Connecticut, however, that under the facts in this case the petitioner's claims of unfair police methods cannot be substantiated by the the record. It does not appear from the evidence that he was subjected to such pressure that there is danger the confessions are false. There is absolutely no proof of the effect of the

claimed coercive acts on the mind of the defendant. On the contrary there is abundant evidence that his confessions stemmed from a guilty conscience, and a hope to save himself from the electric chair.

Conclusion

The confessions of the petitioner admitted into evidence were genuine and truthful. They furnished details the police had no knowledge about, and were not answers to leading questions put by police. The confessions were given by Culombe to Sgt. Paige and Detective Murphy, both of whom were good to him. He confessed to Detective Murphy the first time he talked to him. He confessed to Officer Fersch, a stranger to him and to the investigation by voluntarily telling him details of the murder. He told his wife he confessed because he wanted to make a clean breast of things. He told Officer Fersch he wanted to tell him the story because his conscience was bothering him. He told his wife he was confessing and telling the truth and that he might get life, but Taborsky would get the chair. Petitioner never claimed before Judge Bordon any mistreatment of himself or his wife. He told Judge Bordon he wanted to cooperate with police in any way that he could. He voluntarily signed two confessions after he had counsel and had been advised by his counsel not to sign anything. He testified before the jury, but never claimed he was mistreated or that his confessions were coerced. He portrayed to the jury a picture of cooperation with the police. Culombe was experienced in the ways of crime and in the ways of police investigation. He knew what he was doing when he confessed and he did so voluntarily, hoping to escape the electric chair.

It is respectfully submitted that on the facts and the law, the verdict and judgment of the trial court of guilty, unanimously affirmed by the Supreme Court of Errors of Connecticut, ought to be affirmed.

Respectfully sut nitted,

State of Connecticut, Respondent

by JOHN D. LABELLE,
State's Attorney for Hartford County

J. READ MURPHY,
Assistant State's Attorney

GEORGE D. STOUGHTON,
Assistant State's Attorney

APPENDIX

General Statutes of Connecticut Revision of 1958

Sec. 6-49. *Arrest Without Warrant.* Sheriffs, deputy sheriffs, county detectives, constables, borough bailiffs, police officers, special protectors of fish and game and railroad and steamboat policemen, in their respective precincts, shall arrest, without previous complaint and warrant, any person for any offense in their jurisdiction, when such person is taken or apprehended in the act or on the speedy information of others, and members of the state police department or of an organized local police department or county detectives shall arrest, without previous complaint and warrant, any person who such officer has reasonable grounds to believe has committed or is committing a felony. Any person so arrested shall be presented with reasonable promptness before proper authority. (1949 Rev., S. 465; 1953, S. 195d.)

Sec. 54-80. *Public Defender.* The judges of the superior court shall, at each annual meeting in June, appoint an attorney at law, of at least five years' practice and residence, in each county in the state, except New Haven county, in which they shall appoint one such attorney for the New Haven district and one for the Waterbury district, to be public defenders thereof for the ensuing year and shall, from time to time, make rules and regulations necessary for the conduct of such office. Each such public defender shall act as attorney in the defense of any person charged with crime in either the superior court or the court of common pleas for the county for which he has been appointed, when such person is without funds sufficient to employ counsel for such defense. The public defender may, in accordance with the rules and regulations adopted by the judges of the superior court, act, within the county or district for which he has been appointed, as attorney for the defense of any such accused person upon any

preliminary hearing before any court in the state or before any committing magistrate. Any vacancy in the office of public defender shall be filled by the chief justice until the next annual meeting of the judges of the superior court. (1949 Rev., S. 8796.)

Sec. 54-81. *Allowance To Public Defenders.* At the close of each criminal term or session of the superior court or court of common pleas, the public defender shall file with the clerk an itemized statement of expenses necessarily incurred by him during such term and any such preliminary hearing as provided in section 54-80, and the court shall allow a reasonable sum for such expenses, which shall be taxed and paid as other expenses in criminal cases in either said superior court or court of common pleas. In addition to the expenses necessarily incurred in the court of common pleas, a reasonable allowance for the services of the public defender rendered in said court shall be made by the presiding judge at the conclusion of the criminal term. The judge presiding at any term or session of the superior court or court of common pleas may, upon application of the public defender for such county, appoint an attorney other than the public defender to represent any person charged with crime in any criminal court in such county, if, in the opinion of such judge, such appointment should be made, and in such case the judge of the court in which such representation was made shall allow a reasonable sum for such services and necessary disbursements in connection therewith, such amount to be paid as are other court expenses. (1949 Rev., S. 3615.)

Sec. 53-9. *Degrees Of Murder; Trial.* All murder perpetrated by means of poison, or by lying in wait, or by any other kind of wilful, deliberate and premeditated killing, or committed in perpetrating, or in attempting to perpetrate, any arson, rape, robbery or burglary, or injury to any person or property by means of any explosive compound, shall be

murder in the first degree; and all other kinds of murder shall be murder in the second degree; and the degree of the crime charged shall be alleged in the indictment; but the jury before which any person indicted for murder is tried may find him guilty of homicide in a less degree than that charged; and, if he is convicted by confession, the court, to be composed of the judge presiding at the session and two other judges to be designated by the chief justice of the supreme court of errors, shall hear the witnesses in such case, and such judges, or a majority of them shall determine the degree of the crime and render judgment and impose sentence accordingly. (1949 Rev., S. 8350.)

Sec. 53-10. *First Degree Murder, Other Homicides; Death Penalty or Life Imprisonment.* Any person who commits murder in the first degree, or who causes the death of another by wilfully placing any obstruction upon any railroad or by loosening, taking up or removing any part of the superstructure of such railroad or by wilfully burning any building or vessel, shall suffer death unless the jury, by its verdict and as a part thereof, upon and after a consideration of all the evidence, recommends imprisonment in the State Prison for life, in which case the sentence of the court shall be imprisonment for life without benefit of release as provided in sections 18-7, 18-26 and 54-125, provided, if the person accused elects to be tried by the court and is found guilty or if such person is convicted by confession, the court may, in its discretion, imprison such person in the [illegible] Prison for life without the benefit of release as provided in sections 18-7, 18-26 and 54-125. (1949 Rev., S. 8351; 1951, S. 3266d; 1957 P. A. 461, S. 3.)

Sec. 54-45. *When Grand Jury Is Required.* The superior court may, when necessary, order a grand jury of eighteen electors of the county where said court is sitting to be summoned, impaneled and sworn to inquire after and present such

offenses as are cognizable by said court; and no person shall be put to plea or held to trial for any crime the punishment of which may be death or imprisonment for life unless an indictment has been found against him for such crime by a grand jury legally impaneled and sworn, and no bill shall be presented by any grand jury unless at least twelve of the jurors agree to it. (1949 Rev., S. 8747)

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PETITION NOT PRINTED

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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1960

No. 161

ARTHUR CULOMBE,

Petitioner,

—versus—

STATE OF CONNECTICUT,

Respondent.

PETITIONER'S REPLY BRIEF

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PETITIONER'S REPLY BRIEF

I.

If This Court Finds Any One of the Confessions to Have Been Involuntary, the Conviction of the Petitioner Must Be Reversed Despite Other Substantial Evidence.

The respondent claims that, when a defendant-confessor raises the issue of the voluntariness of his confession, the Connecticut procedure is as follows:

1) The trial judge makes a finding on a preliminary question of fact as to the voluntariness of the confession.

2) The Jury determines (a) whether or not the confession was voluntary, and (if it determines the confession was voluntary), (b) whether or not the confession is credible.

The respondent likens this procedure to the "New York Rule" on the admission of confessions into evidence as that

rule is set forth in *Stein* v. *New York*, 346 U.S. 156. Using the *Stein* case as authority, respondent determines that, even if one confession is found by this court to be involuntary, this court must not reverse the conviction of petitioner.

The respondent's argument is pure sophistry. Connecticut does not follow the New York Rule and did not do so in the instant case. Moreover, even if Connecticut procedure could be likened to that in New York, *Stein* does not support respondent's argument in respect to the instant case.

A. *The Connecticut rule on the admissibility of confessions is not the "New York Rule", but the "orthodox rule".* Trial counsel in Connecticut have always assumed the Connecticut rule is the "orthodox rule". Under this rule the Trial Court determines the voluntariness of the confession and, if it finds the confession to be voluntary, submits the confession to the jury which is directed to determine the credibility of the confession. This rule differs from the "New York Rule" in that the jury does not determine the issue of voluntariness.

The respondent states that Connecticut uses the "orthodox rule" at pages 22 and 23 of its brief. The Connecticut Supreme Court of Errors stated that this was the rule which was followed in the instant case (T. Vol. IV, p. 67):

> "... The *court* ruled that the confessions of both defendants were voluntary and admitted the confessions in evidence.
>
> A confession is not admissible in evidence *unless it is voluntary* [Citations]. The issue is one of fact to be determined *by the court* in the exercise of a legal discretion, and its decision will not be disturbed unless that discretion has been abused [Citations]. The issue

of admissibility is ordinarily resolved *by the court* after a preliminary hearing in the absence of the jury, the procedure followed in the instant cases [Citation]." (Emphasis supplied.)

The respondent claims that the jury was charged to determine the issue of voluntariness in the instant case and that because of this the "New York Rule" was the rule used by the court. The jury was charged as follows:

"... You are to consider whether or not in your opinion these statements were made voluntarily and were not obtained by violence or because of fear or duress *so that they are likely to be false* ..." (Emphasis supplied) (T. Vol. III, p. 1470).

This charge bases the issue of voluntariness on the credibility of the confession. That is, the jury is being asked to call the confessions involuntary if it thinks there is a possibility that they were false. In *Rochin* v. *California*, 342 U.S. 165, this court said:

"... Use of involuntary confessions in State Criminal trials is constitutionally obnoxious not only because of their unreliability. They are inadmissible under the due process clause even though statements contained in them may be independently established as *true*. Coerced confessions offend the community's sense of fair play and decency." (Emphasis supplied.)

See also, Zeldes, *The Rogers Opinion: Confusion in the Involuntary Confession Area*, 30 Conn. B. Jour. 221.

Thus, what really happened in the instant case was that the issue of credibility was submitted to the jury, not the issue as to voluntariness. The "orthodox rule" was used by the Court.

Since the "orthodox rule" was used in the instant case, *Stein* v. *New York*, 346 U.S. 156 (1953) is inapplicable as that case is tied to the "New York Rule". Thus, there is no support for respondent's argument. Moreover, it is clear that there was no reason for petitioner's counsel to pursue the issue of voluntariness before the jury after that issue had been determined by the Trial Judge. *Rogers* v. *Richmond*, 252 F.2d 807 (1958) and 271 F.2d 364 (1959).

B. *Even if the Connecticut Procedure could be likened to that in New York, the* Stein *case would not support respondent's argument in respect to the instant situation.* The *Stein* case was distinguished on this very point in *Payne* v. *Arkansas*, 356 U.S. 560 (1957). In that case the court heard testimony as to the voluntariness of the confession without the jury being present; made a preliminary finding that the confession should go to the jury on this issue; and charged the jury to determine the question of voluntariness. The jury returned a verdict of guilty. In reversing that conviction this court said, after finding the confession was involuntary:

> "Respondent suggests that, apart from the confession, there was adequate evidence before the jury to sustain the verdict. But where, as here, a coerced confession constitutes a part of the evidence before the jury, and a general verdict is returned, no one can say what credit and weight the jury gave the confession. And in these circumstances this court has uniformly held that even though there may have been sufficient evidence, apart from the coerced confession, to support a judgment of conviction, the admission in evidence, over objections, of the coerced confession vitiates the judgment because it violates the Due Process Clause of the Fourteenth Amendment.[15]

Note 15 . . . *Stein* v. *New York*, 346 U.S. 156, is not the contrary, for in that case this Court did not find the confession was coerced. Indeed it was there recognized that when 'The ruling admitting the confession is found on review to be erroneous, the conviction, at least normally, should fall with the confession . . . [R]eliance on a coerced confession vitiates a conviction because such a confession combines the persuasiveness of apparent conclusiveness with what judicial experience shows to be illusory and deceptive evidence. A final confession is a false foundation for any conviction . . . '" *Id.* at 191-192.

See *Spano* v. *People of State of New York*, 360 U.S. 315, 324.

Malenski v. *New York*, 324 U.S. 401, is also relevant on this point. In that case there were four confessions. The first confession of the four was found to be coerced. This court reversed the decision on the basis of this one coerced confession without even considering the possibility of coercion in regard to the other three confessions.

II.

If This Court Finds That the Wednesday (February 27, 1957) Night Confession Was Involuntary and Thus Excludes It From Any Retrial, It Must Also, by That Fact Alone, Exclude the Confession Given on Monday, March 4, 1957, From Any Retrial.

Even if it is found that petitioner voluntarily signed the confession of Monday, March 4, 1957 and was not deprived of the right to counsel, that confession must be excluded from any future trial if this court finds the Wednesday night confession to be involuntary. The contents of the Monday and Wednesday night confession are virtually the same, except for the fact that the Wednesday night con-

fession contains additional material pertaining to another incident unrelated to the New Britain murders. In fact, Lt. Rome told Culombe that the Monday confession was a copy of the Wednesday night confession but omitted reference to the other indictment (T. 506). It cannot be presumed that Culombe knew that the Wednesday night confession was legally inadmissible. Culombe thought he was merely reaffirming a previously made statement.

If the Monday confession is allowed to be used in a retrial, such use will unduly prejudice the petitioner because of its reference to Wednesday night. Such use would admit to evidence the fact that there was a Wednesday night confession. Reference to a coerced confession, even though that confession's contents is not actually put into evidence, was held unconstitutional in *Malenski* v. *New York,* 324 U.S. 401, 410 (1944).

The contents of the Monday confession is a product of the same coercion as is the Wednesday night confession. Moreover, it was stipulated at trial that they were one and the same confession (T. Vol. II, p. 605).

III.

If the Wednesday (February 27, 1957) Night Confession Is Found to Be a Product of Coercion, the Alleged Oral Confession Given by Petitioner on Wednesday Afternoon Must Also Fall as Being a Product of the Same Coercion.

Culombe allegedly gave an oral confession to the State Police on Wednesday afternoon, February 27, 1957, which confession was entered into evidence (T. 998). The tactics of the State Police up to the taking of the alleged oral confession were the same and as coercive as those leading up to the taking of the written confession on Wednesday night. Significantly, this alleged oral confession was begun shortly after petitioner was illegally "borrowed" from the

jail on Wednesday morning in violation of a mittimus. For the reasons set forth in petitioner's original brief, we press the inadmissibility of this confession as standing in the same category as the Wednesday night confession and respectfully urge this court so to rule.

IV.

Summary

In this case the police were dealing with a man they knew to be an illiterate and a mental defective. The State concedes this (Resp. Brief, p. 24). The fact that he was an experienced man of 33 years is irrelevant. The relevant fact is that he was easily led and enormously suggestible. This fact caused him to be more easily coerced.

The police illegally detained this moron and used various tactics to delay his presentation before proper authorities. It is irrelevant whether the petitioner knew he was illegally detained. This court has consistently considered illegal detention as a relevant circumstance of coercion without regard to the suspect's awareness of the illegalities.

> *Turner* v. *Penn.*, 338 U.S. 62, 66, 67;
> *Ward* v. *Texas*, 316 U.S. 547, 552, 553, 555;
> *Ashcraft* v. *Tenn.*, 322 U.S. 143, 152;
> *Malenski* v. *New York*, 324 U.S. 401, 412, 417.

> "To delay arraignment . . . facilitates . . . use of 'third degree' methods. Therefore, . . . such occurrences [are] relevant circumstantial evidence in the inquiry as to . . . psychological coercion." *Stein* v. *New York*, 346 U.S. 156, 187.

The police admitted using petitioner's wife to get him to confess (T. 293-294, 370-371). It is incredible that the State now denies this glaring fact. The State claims that

Mrs. Culombe stated she went to State Police Headquarters voluntarily. In doing so the State conveniently ignores the fact that she made the statement with great sarcastic tone.

But it does not matter what was done *to* Mrs. Culombe. What is relevant is what was done *with* her to make her husband confess. The police knew Culombe was a mental defective (T. 264, 276). They brought his wife and children to the jail. His wife accused him of the crime (T. 200, 251, 451-452, 530). He broke down crying and was upset after his meeting with his wife (T. 400, 449). He was left alone that night. He confessed the next day.

The significant question is whether or not the intentional use by the police of close family members of a suspect to obtain a confession is a factor which should be considered by this court as indicative of coercive tactics. The petitioner claims it must be so considered.

The language of all the confession was not that of Culombe. This fact coupled with his feeble-mindedness and illiteracy is relevant to show that it can be presumed that he had little knowledge of what he was signing. For example, words of intent could have been easily supplied by the interrogators.

In regard to counsel, the petitioner argues: (1) he lacked counsel at the time of every confession he gave, and (2) not only did he lack counsel at the time of the Sunday and Monday confessions, but at those times he had a right to counsel and was denied this right.

It should be carefully noted that petitioner makes no claim that he had a *right to counsel before or at the time of his confession on Wednesday night, February 27, 1957.* He argues that since he had no counsel at this time there was a greater opportunity for coercion. The facts show that the police took advantage of this opportunity by illegally de-

taining the petitioner and delaying his presentation before proper authority.

In regard to the Sunday and Monday confessions, which came after petitioner was formally accused of murder, petitioner claims he had a right to counsel. Federal Judge J. Joseph Smith substantiates this claim in *U.S. ex rel. Reid* v. *Richmond*, Civil Action 7845, Memorandum of Decision (Dist. Conn. 13 July, 1960), at page 4:

> "... Representations at the trial can be of little help if a person has been led to describe his actions in terms which provide the elements of the most serious charge possible against him. When the investigation has progressed to the point of a formal charge of murder the defendant is in the greatest need of competent legal advice so that he may not knowingly throw away his constitutional rights and furnish tools to convict himself of crimes of which he may be innocent or of a degree greater than that of which he may be guilty. The danger exists that this may have happened here. There was not here long questioning and trickery which induced the confession in the *Spano* case, but there was a far greater need for counsel due to the age, mental limitations, and suggestibility of the accused."

and at page 8:

> "No objection was made at trial to the admission of the confessions in evidence, there being no claim of coercion. The sole question here is whether there is a failure of due process when such *confessions are used at a trial, having been obtained while, it is claimed, defendant was deprived of his constitutional right to counsel.* Is it a violation of the 14th Amendment for a state court to allow the use in a capital case of

> confessions obtained by being 'nice' to a minor and giving him candy bars while depriving him of the assistance of counsel? At what point in the proceedings must counsel be provided? No hard and fast rule has as yet been laid down. It is plain, however, that in a capital case involving one of Reid's age, mentality and schooling, provision of counsel was necessary *at least as soon as the formal accusation of murder was made* in the police court. The use of statements elicited from him thereafter while kept in ignorance of his rights made the trial fundamentally unfair. The judgment of conviction must be set aside. It is so ordered." (Emphasis supplied.)

Thus, in regard to the confession on *Wednesday night,* petitioner argues that the fact that he lacked counsel is relevant to the issue of coercion and must be considered in addition to other factors. In regard to his confessions on *Sunday and Monday* he also claims lack of counsel as an element of the coercion which led him to confess. In addition to the coercion argument in respect to the Sunday and Monday confessions, petitioner also argues that he was denied the right to counsel and that even if it is found by this court that there was no coercion on Sunday or Monday, the admission of these confessions into evidence is unconstitutional because of the denial of counsel.

The respondent admits that petitioner was extensively questioned, and states that Culombe was questioned about many crimes. In fact, respondent gives 33 citations referring to questioning about other crimes. The fact that he was questioned in respect to many crimes does not diminish in any respect the fact that he was extensively questioned. In fact, it indicates that Culombe must have been questioned a great deal. The subject matter of the questioning is irrelevant, however. The relevant fact is that he was extensively

questioned by several officers. "Interrogation is not inherently coercive . . . [But] the limits [of interrogation] in any case depend upon the power of resistance of the person confessing. What would be overpowering to the weak of will or mind might be utterly ineffective against an experienced criminal." *Stein* v. *New York, supra,* at page 185. Culombe, being a moron who is easily led and enormously suggestible, had a low power of resistance to extensive interrogation. Thus, extensive interrogation is highly relevant in this case.

All of the above indicates what little mental freedom Culombe had and that there was a high degree of coercion involved in inducing him to confess Wednesday night. The force of this coercion certainly continued to the time of his Sunday and Monday confessions. It was compounded by an intensive psychiatric interview on Saturday and by Lt. Rome's deceit on Monday.

The respondent claims Culombe was "cooperative." It confounds his cooperative spirit with his feeble-mindedness, suggestibility, and the fact that he was easily led. It can easily be found in the record that this so-called cooperative spirit did not develop until the use of his wife and family and the extensive interrogation had had an opportunity to prey upon his moronic mind. His "cooperative" spirit was a result of the coercive tactics of the police.

This case involves several factors which this court has held to be elements of coercion. Certainly, cumulatively and jointly, these elements constitute a coercion so violative of due process that this court must reverse the decision of the Connecticut Supreme Court of Errors.

The burden of proof is upon the State to show that these confessions were voluntary once the issue of voluntariness has been raised. *State* v. *Lorain,* 141 Conn. 694. The State

has not sustained the burden. Therefore, we respectfully request that this court hold that each confession was involuntary and accordingly reverse the conviction of the petitioner.

Respectfully submitted,

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* Grateful acknowledgment is herewith made for the assistance rendered by Thomas A. Williams, of the Yale Law School Public Defender Committee.

SUPREME COURT OF THE UNITED STATES

No. 161.—October Term, 1960.

Arthur Culombe, Petitioner, *v.* Connecticut.	On Writ of Certiorari to the Supreme Court of Errors of the State of Connecticut.

[June 19, 1961.]

Mr. Justice Frankfurter announced the judgment of the Court, in an opinion in which Mr. Justice Stewart joins.

Once again the Court is confronted with the painful duty of sitting in judgment on a State's conviction for murder, after a jury's verdict was found flawless by the State's highest court, in order to determine whether the defendant's confessions, decisive for the conviction, were admitted into evidence in accordance with the standards for admissibility demanded by the Due Process Clause of the Fourteenth Amendment. This recurring problem touching the administration of criminal justice by the States presents in an aggravated form in this case the anxious task of reconciling the responsibility of the police for ferreting out crime with the right of the criminal defendant, however guilty, to be tried according to constitutional requirements.

On December 15, 1956, the dead bodies of two men were found in Kurp's Gasoline Station in New Britain, Connecticut. Edward J. Kurpiewski, the proprietor, was found in the boiler room with a bullet in his head. Daniel J. Janowski, a customer, was found in the men's toilet room shot twice in the head. Parked at the pumps in front of the station was Janowski's car. In it was Janowski's daughter, physically unharmed. She was the only surviving eyewitness of what had happened at the station. She was eighteen months old.

The Kurp's affair was one in a series of holdups and holdup killings that terrified the operators of gasoline stations, package stores and small shops throughout the environing Connecticut area. Newspapers and radio and television broadcasters reported each fresh depredation of the "mad killers." At Hartford, the State Police were at work investigating the crimes, apparently with little evidence to go on. At the scene of the killings of Kurpiewski and Janowski no physical clues were discovered.[1] The bullet slugs removed from the brains of the two victims were split and damaged.

In the last week of February 1957, for reasons which do not appear in this record, suspicion in connection with at least two of the holdups under investigation, holdups of a country store in Coventry and of a package store in Rocky Hill, focused on two friends, Arthur Culombe and Joseph Taborsky. On the afternoon of February 23, the two were accosted by teams of officers and asked to come to State Police Headquarters. They were never again out of police custody. In the Headquarters' interrogation room and elsewhere, they were questioned about the Coventry and Rocky Hill holdups, Kurps, and other matters. Within ten days Culombe had five times confessed orally to participation in the Kurp's Gasoline Station affair—once re-enacting the holdup for the police—and had signed three typed statements incriminating himself and Taborsky in the Kurp's killings. Taborsky also confessed.

The two were indicted and tried jointly for murder in the first degree before a jury in the Superior Court at Hartford. Certain of their oral and written statements

[1] At the trial of petitioner and his co-defendant Taborsky for the killings at Kurp's, no evidence of any importance was presented by the State that did not derive, directly or indirectly, from the confessions and disclosures obtained from the two men during February and March 1957.

were permitted to go to the jury over their timely objections that these had been extracted from them by police methods which made the confessions inadmissible consistently with the Fourteenth Amendment. Both men were convicted of first-degree murder and their convictions affirmed by the Supreme Court of Errors. 147 Conn. 194, 158 A. 2d 239. Only Culombe sought review by this Court. Because his petition for certiorari presented serious questions concerning the limitations imposed by the Federal Due Process Clause upon the investigative activities of state criminal law enforcement officials, we issued the writ. 363 U. S. 826.

I.

The occasion which in December 1956, confronted the Connecticut State Police with two corpses and an infant as their sole informants to a crime of community-disturbing violence is not a rare one. Despite modern advances in the technology of crime detection, offenses frequently occur about which things cannot be made to speak. And where there cannot be found innocent human witnesses to such offenses, nothing remains—if police investigation is not to be balked before it has fairly begun—but to seek out possibly guilty witnesses and ask them questions, witnesses, that is, who are suspected of knowing something about the offense precisely because they are suspected of implication in it.

The questions which these suspected witnesses are asked may serve to clear them. They may serve, directly or indirectly, to lead the police to other suspects than the persons questioned. Or they may become the means by which the persons questioned are themselves made to furnish proofs which will eventually send them to prison or death. In any event, whatever its outcome, such questioning is often indispensable to crime detection. Its compelling necessity has been judicially recognized as its

sufficient justification, even in a society which, like ours, stands strongly and constitutionally committed to the principle that persons accused of crime cannot be made to convict themselves out of their own mouths.

But persons who are suspected of crime will not always be unreluctant to answer questions put by the police. Since under the procedures of Anglo-American criminal justice they cannot be constrained by legal process to give answers which incriminate them, the police have resorted to other means to unbend their reluctance, lest criminal investigation founder.[2] Kindness, cajolery, entreaty, deception, persistent cross-questioning, even physical brutality have been used to this end.[3] In the United States,

[2] It is significant that the proposal most frequently made with the object of curbing third-degree methods by the police is the provision of some form of preliminary judicial interrogation of persons accused of crime, in which proceeding the privilege against self-incrimination is to be so far withdrawn as to permit the prosecution, upon subsequent trial of the accused, to comment on his refusal to answer questions. See IV National Commission on Law Observance and Enforcement, Report No. 11, Lawlessness in Law Enforcement (hereinafter IV Wickersham) (1931), 5–6; Kauper, Judicial Examination of the Accused—A Remedy for the Third Degree, 30 Mich. L. Rev. 1224 (1932); Pound, Legal Interrogation of Persons Accused or Suspected of Crime, 24 J. Crim. L. & Criminology 1014 (1934); McCormick, Some Problems and Developments in the Admissibility of Confessions, 24 Tex. L. Rev. 239, 277 (1946). Cf. Report of Committee on Lawless Enforcement of Law, Section of Criminal Law and Criminology of the American Bar Assn., 1 Am. J. Pol. Sci. (hereinafter ABA Committee Report) 575, 593 (1930). Underlying these proposals is the recognition that some form of interrogation of criminal suspects is necessary to effective law enforcement.

[3] For the prevalence in this country of various methods of police pressuring ranging from persistent questioning to beatings see, *e. g.*, ABA Committee Report, *passim;* IV Wickersham, *passim;* Booth, Confessions, and Methods Employed in Procuring Them, 4 So. Calif. L. Rev. 83 (1930); Note, 43 Harv. L. Rev. 617 (1930); Hopkins, Our Lawless Police (1931), *passim;* Report of the President's Committee on Civil Rights, To Secure These Rights (1947), 25–27. See

"interrogation" has become a police technique,[4] and detention for purposes of interrogation a common, although generally unlawful, practice.[5] Crime detection officials, finding that if their suspects are kept under tight police control during questioning they are less likely to be distracted, less likely to be recalcitrant and, of course, less likely to make off and escape entirely, not infrequently take such suspects into custody for "investigation."

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also authorities cited in note 5, *infra*. Although the third degree is, in England, spoken of as the American practice, England herself is not free of police interrogation and cross-questioning. Report of the Royal Commission on Police Powers and Procedure [Cmd. 3297] (1929) 100–102; Preliminary Investigations of Criminal Offences, A Report by Justice (1960), 9–10; Williams, Questioning by the Police: Some Practical Considerations, [1960] Crim. L. Rev. 325, 328–331; Williams, Police Detention and Arrest Privileges Under Foreign Law, England, 51 J. Crim. L., Criminology & Pol. Sci. 413 (1960). A Royal Commission is now engaged in a comprehensive inquiry concerning the police which will, apparently, include study of police methods insofar as these may relate to the control and administration of the police and their relationship with the public. See the Commission's terms of reference, Royal Commission on the Police 1960, Interim Report [Cmd. 1222] (1960), iv.

[4] See, *e. g.*, Kidd, Police Interrogation (1940); Mulbar, Interrogation (1951); Dienstein, Technics for the Crime Investigator (1952), 97–115; Inbau and Reid, Lie Detection and Criminal Interrogation (3d ed. 1953); O'Hara, Fundamentals of Criminal Investigation (1956), 95–126. Compare with the highly sophisticated methods of police interrogation described in these volumes Lord Brampton's address to Police Constables printed, in part, in Report of the Royal Commission, *supra*, note 3, Appendix 8, at 147: "Perhaps the best maxim for a constable to bear in mind with respect to an accused person is, *'Keep your eyes and your ears open, and your mouth shut.'*" See also *Regina* v. *Male and Cooper*, 17 Cox C. C. 689, 690.

[5] American Civil Liberties Union, Illinois Division, Secret Detention by the Chicago Police (1959); see also Foote, Law and Police Practice: Safeguards in the Law of Arrest, 52 Nw. U. L. Rev. 16, 20–27 (1957); Hall, The Law of Arrest in Relation to Contemporary Social Problems, 3 U. of Chi. L. Rev. 345, 359–362 (1936); Hall, Police and Law in a Democratic Society, 28 Ind. L. J. 133, 154 (1953).

This practice has its manifest evils and dangers. Persons subjected to it are torn from the reliances of their daily existence and held at the mercy of those whose job it is—if such persons have committed crimes, as it is supposed they have—to convict them for it. They are deprived of freedom without a proper judicial tribunal having found them guilty, without a proper judicial tribunal having found even that there is probable cause to believe that they may be guilty.[6] What actually happens to them behind the closed door of the interrogation room is difficult if not impossible to ascertain. Certainly, if through excess of zeal or aggressive impatience or flaring up of temper in the face of obstinate silence, a prisoner is abused,[7] he is faced with the task of overcoming, by his

[6] For a thorough discussion of the evils inherent in the detention of suspected persons for interrogation, see Memorandum on the Detention of Arrested Persons and Their Production Before a Committing Magistrate, Transmitted to Sub-committee No. 2 of the Committee on the Judiciary of the House of Representatives (1944), in Chafee, Documents on Fundamental Human Rights, Pamphlets 1–3 (1951–1952), 483. Beyond the obvious, immediate considerations concerning incarceration without judicial hearing, the threat of the third degree, deprivation of counsel at a possibly critical period in the criminal proceeding, etc., there lie other, less evident but equally significant menaces. There is the threat that a police system which has grown to rely too heavily on interrogation will not pursue, or learn, other crime detection methods, and the consequent danger that the police will feel themselves under pressure to secure confessions. See IV Wickersham, at 187–189; Glueck, Crime and Justice (1936), 76. There is the danger that the police, by offending canons of fairness regarded as fundamental by the people, will create an atmosphere of public resentment to authority inimical to law enforcement. See Hall, The Law of Arrest in Relation to Contemporary Social Problems, 3 U. of Chi. L. Rev. 345, 373 (1936); Williams, Questioning by the Police: Some Practical Considerations, [1960] Crim. L. Rev. 325, 337.

[7] See IV Wickersham, at 174: "But there is danger that the process of questioning may develop into the third degree. Once the interro-

lone testimony, solemn official denials.[8] The prisoner knows this—knows that no friendly or disinterested witness is present—and the knowledge may itself induce fear.[9] But, in any case, the risk is great that the police will accomplish behind their closed door precisely what the demands of our legal order forbid: make a suspect the unwilling collaborator in establishing his guilt. This they may accomplish not only with ropes and a rubber hose, not only by relay questioning persistently, insistently subjugating a tired mind, but by subtler devices.

In the police station a prisoner is surrounded by known hostile forces. He is disoriented from the world he knows and in which he finds support.[10] He is subject to coercing

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gation has begun, the police or other officials are naturally reluctant to leave off until the desired information has been obtained, regardless of the prisoner's fatigue or need of sleep; and the baffled questioner, getting obstinate silence or evasive and impudent replies, is easily tempted to eke out his unsuccessful questions by threats or violence."

[8] There can be no doubt that the secrecy in which police-station interrogation is usually carried out is a condition which encourages questioning to run over into violence. See ABA Committee Report, at 587–588; Hogan and Snee, The McNabb-Mallory Rule: Its Rise, Rationale and Rescue, 47 Geo. L. J. 1, 27 (1958); cf. IV Wickersham, at 31. Historically there has been intimate connection between the use of torture and secret investigations. Filamor, Third Degree Confession, 13 Bombay L. J. 339, 340 (1936).

[9] See ABA Committee Report, at 579: ". . . [T]he prisoner knows that he is wholly at the mercy of his inquisitor and that the severe cross-examination may at any moment shift to a severe beating."

[10] See Report of the Royal Commission on Police Powers and Procedure [Cmd. 3297] (1929), at 61: ". . . [P]ersons in custody . . . are from the nature of things at a disadvantage because of their position. As one witness expressed it to us, 'the whole of the influences around them appear to them to be hostile' and we think that a right of asking questions in these circumstances is in itself a source of danger. . . ."

impingements, undermining even if not obvious pressures of every variety. In such an atmosphere, questioning that is long continued—even if it is only repeated at intervals, never protracted to the point of physical exhaustion—inevitably suggests that the questioner has a right to, and expects, an answer.[11] This is so, certainly, when the prisoner has never been told that he need not answer and when, because his commitment to custody seems to be at the will of his questioners, he has every reason to believe that he will be held and interrogated until he speaks.[12]

However, a confession made by a person in custody is not always the result of an overborne will. The police may be midwife to a declaration naturally born of remorse, or relief, or desperation, or calculation. If that is so, if

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[11] O'Brien, J., dissenting, in *Regina* v. *Johnston*, 15 Irish Common Law Reports, 60, 87, 90 (Crim. App.): ". . . [I]t appears to me that answers given by a prisoner to questions put to him by those in whose custody he is, respecting the offence with which he is charged, cannot be regarded as voluntary statements, except the prisoner be at the same time apprised that he is not obliged to answer them, and that his answers may be given in evidence against him at his trial. The very fact of these questions being put by such a person, unaccompanied by any such caution, conveys to the prisoner's mind the idea of some obligation on his part to answer them, and deprives the statement of that voluntary character which is essential to its admissibility." Cf. Cuthbert W. Pound, Inquisitorial Confessions, 1 Cornell L. Q. 77, 80 (1916).

[12] Cf. Wilde, C. J., in *Regina* v. *Pettit*, 4 Cox C. C. 164, 165: "The law is so extremely cautious in guarding against anything like torture, that it extends a similar principle to every case where a man is not a free agent in meeting an inquiry. If this sort of examination be admitted in evidence, it is hard to say where it might stop. A person in custody, or in other imprisonment, questioned by a magistrate, who has power to commit him and power to release him, might think himself bound to answer for fear of being sent to gaol. The mind in such a case would be likely to be affected by the very influences which render the statements of accused persons inadmissible." Cf. IV Wickersham, at 93.

the "suction process" [13] has not been at the prisoner and drained his capacity for freedom of choice, does not the awful responsibility of the police for maintaining the peaceful order of society justify the means which they have employed? It will not do to forget, as Sir Patrick (now Lord Justice) Devlin has put it, that "The least criticism of police methods of interrogation deserves to be most carefully weighed because the evidence which such interrogation produces is often decisive; the high degree of proof which the English law requires—proof beyond reasonable doubt—often could not be achieved by the prosecution without the assistance of the accused's own statement." [14] Yet even if one cannot adopt "an undiscriminating hostility to mere interrogation . . . without unduly fettering the States in protecting society from the criminal," [15] there remain the questions: When, applied to what practices, is a judgment of impermissibility drawn from the fundamental conceptions of Anglo-American accusatorial process "undiscriminating"? What are the characteristics of the "mere interrogation" which is allowable consistently with those conceptions?

II.

The problem which must be faced in fair recognition of the States' basic security and of the States' observance of their own standards, apart from the sanctions of the Fourteenth Amendment, in bringing the guilty to justice is that which Mr. Justice Jackson described in dealing with three cases before us:

> "In each case police were confronted with one or more brutal murders which the authorities were under

[13] *Watts* v. *Indiana*, 338 U. S. 49, 53 (opinion of FRANKFURTER, J.).

[14] Devlin, The Criminal Prosecution in England (1958), 58.

[15] Jackson, J., dissenting in *Ashcraft* v. *Tennessee*, 322 U. S. 143, 156, 160.

the highest duty to solve. Each of these murders was unwitnessed, and the only positive knowledge on which a solution could be based was possessed by the killer. In each there was reasonable ground to *suspect* an individual but not enough legal evidence to *charge* him with guilt. In each the police attempted to meet the situation by taking the suspect into custody and interrogating him . . . .

". . . . [N]o one suggests that any course held promise of solution of these murders other than to take the suspect into custody for questioning. The alternative was to close the books on the crime and forget it, with the suspect at large. This is a grave choice for a society in which two-thirds of the murders already are closed out as insoluble.

". . . The suspect neither had nor was advised of his right to get counsel. This presents a real dilemma in a free society. To subject one without counsel to questioning which may and is intended to convict him, is a real peril to individual freedom. To bring in a lawyer means a real peril to solution of the crime, because, under our adversary system, he deems that his sole duty is to protect his client—guilty or innocent—and that in such a capacity he owes no duty whatever to help society solve its crime problem. Under this conception of criminal procedure, any lawyer worth his salt will tell the suspect in no uncertain terms to make no statement to police under any circumstances." *Watts* v. *Indiana*, 338 U. S. 49, 57, 58–59.

The nature and components of this problem, concerning as it does liberty and security, had better be overtly and critically examined than smothered by unanalyzed assumptions. That judges who agree on relatively legal considerations may disagree in their application to the

same set of circumstances does not weaken the validity of those considerations nor minimize their importance. Differences in the appraisal of the same facts is a commonplace of adjudication.

The critical elements of the problem may be quickly isolated in light of what has already been said. Its first pole is the recognition that "Questioning suspects is indispensable in law enforcement." [16] As the Supreme Court of New Jersey put it recently: "the public interest requires that interrogation, and that at a police station, not completely be forbidden, so long as it is conducted fairly, reasonably, within proper limits and with full regard to the rights of those being questioned." [17] But if it is once

[16] *People* v. *Hall*, 413 Ill. 615, 624, 110 N. E. 2d 249, 254. See 3 Wigmore on Evidence (3d ed. 1940) § 851; Filamor, Third Degree Confession, 13 Bombay L. J. 339, 347 (1936); Kidd, Police Interrogation (1940), 13–15; Mulbar, Interrogation (1951), 3–4; O'Hara, Fundamentals of Criminal Investigation (1956), 8–10; Inbau and Reid, Lie Detection and Criminal Investigation (3d ed. 1953), 195–197.

[17] *State* v. *Smith*, 32 N. J. 501, 534, 161 A. 2d 520, 537. The need to permit police interrogation of suspects in custody has been persistently asserted in this country. See, *e. g.*, H. R. Rep. No. 1815, 85th Cong., 2d Sess. 5–7 ("If the police . . . are, in effect, prevented from conducting a proper and reasonable interrogation of suspects, law enforcement is faced with a serious challenge." *Id.*, at 5.); S. Rep. No. 1478, 85th Cong., 2d Sess. 7–11 ("We abhor . . . the idea . . . that the police do not have the right to reasonably interrogate persons held in custody prior to arraignment. This subcommittee believe that the police not only have the right, but they have the duty to conduct reasonable interrogation of persons charged with crime." *Id.*, at 11.); H. R. Rep. No. 352, 86th Cong., 1st Sess. 4, 6–9 ("[T]o preclude police questioning would have a devastating effect on the criminal law." *Id.*, at 4.); Admission of Evidence in Certain Cases, Hearings before Subcommittee No. 2 of the Committee on the Judiciary, House of Representatives, on H. R. 3690, 78th Cong., 1st Sess., Ser. No. 12, 1–10, 27–60; Supreme Court Decisions, Hearings before the Special Subcommittee to Study Decisions of the Supreme Court of the United States, of the Committee on the Judiciary, House of Representatives, 85th Cong., 2d Sess., Ser. No. 12.

admitted that questioning of suspects is permissible, whatever reasonable means are needed to make the questioning effective must also be conceded to the police. Often prolongation of the interrogation period will be essential, so that a suspect's story can be checked and, if it proves untrue, he can be confronted with the lie; if true, released without charge.[18] Often the place of questioning will have to be a police interrogation room, both because it is important to assure the proper atmosphere of privacy and non-distraction if questioning is to be made productive,[19] and because, where a suspect is questioned but not taken into custody, he—and in some cases his associates—may take prompt warning and flee the premises. Legal counsel for the suspect will generally prove a thorough obstruction to the investigation.[20] Indeed, even to inform

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pt. 1, 2–21, 30–101, 157–190; Admission of Evidence (Mallory Rule), Hearings before the Subcommittee on Improvements in the Federal Criminal Code of the Committee on the Judiciary, Senate, on H. R. 11477, S. 2970, S. 3325, S. 3355, 85th Cong., 2d Sess. 22–45, 64–74, 128–149, 160–162; Confessions and Police Detention, Hearings before the Subcommittee on Constitutional Rights of the Committee on the Judiciary, Senate, 85th Cong., 2d Sess. 2–8, 119–141; 93 Cong. Rec. 1390; 105 Cong. Rec. 12863; Wickersham, The Supreme Court and Federal Criminal Procedure, 44 Cornell L. Q. 14, 19–22 (1958); Inbau, The Confession Dilemma in the United States Supreme Court, 43 Ill. L. Rev. 442 (1948); Inbau, Law and Police Practice: Restrictions in the Law of Interrogation and Confessions, 52 Nw. U. L. Rev. 77, 80–82 (1957); Hall, Police and Law in a Democratic Society, 28 Ind. L. J. 133, 176 (1953); cf. IV Wickersham, at 173–174. And see Williams, Questioning by the Police: Some Practical Considerations, [1960] Crim. L. Rev. 325, 332–334, 340–341.

[18] See Coakley, Law and Police Practice: Restrictions in the Law of Arrest, 52 Nw. U. L. Rev. 2, 8–10 (1957), criticizing as possibly too short, in some cases, the twenty-four hour maximum prehearing detention period provided by § 11 of the Uniform Arrest Act. The Act is found in Warner, The Uniform Arrest Act, 28 Va. L. Rev. 315, 343, 347 (1942).

[19] See Mulbar, Interrogation (1951), 18–19.

[20] See Confessions and Police Detention, Hearings, *supra*, note 17, at 117–118; H. R. Rep. No. 352, 86th Cong., 1st Sess. 8. See also

the suspect of his legal right to keep silent will prove an obstruction. Whatever fortifies the suspect or seconds him in his capacity to keep his mouth closed is a potential obstacle to the solution of crime.

At the other pole is a cluster of convictions each expressive, in a different manifestation, of the basic notion that the terrible engine of the criminal law is not to be used to overreach individuals who stand helpless against it.[21] Among these are the notions that men are not to be imprisoned at the unfettered will of their prosecutors, nor subjected to physical brutality by officials charged with the investigation of crime. Cardinal among them, also, is the conviction, basic to our legal order, that men are not to be exploited for the information necessary to condemn them before the law, that, in Hawkins' words, a prisoner is not "to be made the deluded instrument of his own conviction." 2 Hawkins, Pleas of the Crown (8th ed. 1824), 595. This principle, branded into the consciousness of our civilization by the memory of the secret inquisitions, sometimes practiced with torture, which were

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Kauper, Judicial Examination of the Accused—A Remedy for the Third Degree, 30 Mich. L. Rev. 1224, 1247 (1932), suggesting that the presence of counsel would be obstructive even at an interrogation where the accused was deprived of his privilege against self-incrimination. It is significant that critics of French criminal procedure attribute the presence of third-degree methods and extra-judicial police interrogation in France to the impediment to judicial inquisition introduced by the law of 1897, giving suspects the right to be represented by counsel before the *juge d'instruction*. Hamson, The Prosecution of the Accused—English and French Legal Methods, [1955] Crim. L. Rev. 272, 275-276, 278; Vouïn, The Protection of the Accused in French Criminal Procedure, 5 Int'l & Comp. L. Q. 1, 17 (1956).

[21] These involve, as Sir Patrick Devlin put it, "the recognition, by every system of law in which the liberty of the subject is considered, that inquiry into crime cannot be left simply to administrative discretion. In most systems it has been found necessary to regulate, formally or informally, the power of interrogation." Devlin, The Criminal Prosecution in England (1958), 13-14.

borrowed briefly from the continent during the era of the Star Chamber,[22] was well known to those who established the American governments.[23] Its essence is the requirement that the State which proposes to convict and punish an individual produce the evidence against him by the independent labor of its officers, not by the simple, cruel expedient of forcing it from his own lips. See *Blackburn* v. *Alabama*, 361 U. S. 199, 206–207; *Chambers* v. *Florida*, 309 U. S. 227, 235–238. Quite early the English courts acknowledged the barrier that, in this regard, set off the accusatorial system from the inquisitorial.[24] And soon

[22] For the history of this episode in English judicial practice see 5 Holdsworth, A History of English Law (1924), 184–196; Lowell, The Judicial Use of Torture, 11 Harv. L. Rev. 220, 290 (1897).

[23] Patrick Henry, in 3 Elliot's Debates (2d ed. 1891), 447–448: ". . . What has distinguished our ancestors?—That they would not admit of tortures, or cruel and barbarous punishment. But [in the absence of a Bill of Rights] Congress may introduce the practice of the civil law, in preference to that of the common law. They may introduce the practice of France, Spain, and Germany—of torturing, to extort a confession of the crime. They will say that they might as well draw examples from those countries as from Great Britain, and they will tell you that there is such a necessity of strengthening the arm of government, that they must have a criminal equity, and extort confession by torture, in order to punish with still more relentless severity. We are then lost and undone."

[24] See Gilbert on Evidence (3d ed. 1769) 140: ". . . but then this Confession must be voluntary and without Compulsion; for our Law in this differs from the Civil Law, that it will not force any Man to accuse himself; and in this we do certainly follow the Law of Nature, which commands every Man to endeavor his own Preservation; and therefore Pain and Force may compel Men to confess what is not the Truth of Facts, and consequently such extorted Confessions are not to be depended on." And see *Brown* v. *Walker*, 161 U. S. 591, 596–597; 1 Cooley's Constitutional Limitations (8th ed. 1927) 647–648; cf. 2 Story on the Constitution (4th ed. 1873) § 1788.

Of course, the continental countries which employ inquisitorial modes of criminal procedure have themselves long ago given up reliance upon the tortures which they once used to wring incriminating information out of the accused and which were a salient feature

they came to enforce it by the rigorous demand that an extra-judicial confession, if it was to be offered in evidence against a man, must be the product of his own free choice.[25]

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of the inquisitorial system at the time that the English definitely rejected it in the seventeenth century. For descriptions of the development and modern character of the inquisitorial method, see Keedy, The Preliminary Investigation of Crime in France, 89 U. of Pa. L. Rev. 385, 692, 915 (1940); Garner, Criminal Procedure in France, 25 Yale L. J. 255 (1916); Ploscowe, The Development of Present-Day Criminal Procedures in Europe and America, 48 Harv. L. Rev. 433 (1935); Hanison, The Prosecution of the Accused—English and French Legal Methods, [1955] Crim. L. Rev. 272; and see Vouin, Provisional Release in French Penal Law, 108 U. of Pa. L. Rev. 355 (1960). A description of the careful procedural safeguards which the inquisitorial system now maintains is found in Vouin, The Protection of the Accused in French Criminal Procedure, 5 Int'l & Comp. L. Q. 1 (1956), and an interesting study of some of those safeguards in operation in a particular case is Vouin, L'Affaire Drummond, [1955] Crim. L. Rev. 5.

[25] *Rex* v. *Rudd*, 1 Cowp. 331, 334. See *Ibrahim* v. *Rex*, [1914] A. C. 599, 609–610 (P. C.). Wigmore, it is true, attributes to the English exclusionary rule the sole purpose of assuring the reliability of evidence. See 3 Wigmore on Evidence (3d ed. 1940) §§ 815–867. There can be no doubt, of course, that the fear of false confessions played a large part in the adoption of the rule. See *Rex* v. *Warickshall*, 1 Leach 298, 299–300; 3 Russell on Crimes (6th ed. 1896) 478, n. (e). But it is equally clear that there soon mingled with this original and at first exclusive impetus another independent and sufficient, although historically diverse, reason for the rule: the conception that the use of extorted confessions set at naught the underlying tenet of the accusatorial system, that men might not be compelled to speak what would convict them. See Gilbert on Evidence, quoted note 24, *supra*. Quite apart from testimonial unreliability, where it appeared that coercion had been applied to extract extra-judicial incriminating statements, the courts refused to be party to such proceedings. *Regina* v. *Jarvis*, 10 Cox C. C. 574, 576 (Crim. App.); *Regina* v. *Thompson*, [1893] 2 Q. B. 12, 18–19 (Cr. Cas. Res.); *Chalmers* v. *H. M. Advocate*, [1954] Sess. Cas. 66, 78–79, 81–82 (J. C.); O'Brien, J., dissenting in *Regina* v. *Johnston*, 15 Irish Common Law Reports 60, 87, 88. Compare *Bram* v. *United States*, 168 U. S. 532, 543. And see McCormick, The Scope of Privilege in the

So fundamental, historically, is this concept, that the Fourteenth Amendment, as enforced by our decisions, applied it as a limitation upon the criminal procedure of the States. Consistently with that Amendment neither the body nor mind of an accused may be twisted until he breaks. *Brown* v. *Mississippi*, 297 U. S. 278; *Leyra* v. *Denno*, 347 U. S. 556.

Recognizing the need to protect criminal suspects from all of the dangers which are to be feared when the process of police interrogation is entirely unleashed, legislatures have enacted several kinds of laws designed to curb the worst excesses of the investigative activity of the police. The most widespread of these are the ubiquitous statutes requiring the prompt taking of persons arrested before a judicial officer;[25] these are responsive both to the fear

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Law of Evidence, 16 Tex. L. Rev. 447, 451–457 (1938); Smith, Public Interest and the Interests of the Accused in the Criminal Process—Reflections of a Scottish Lawyer, 32 Tulane L. Rev. 349, 354–355 (1958); Lowell, The Judicial Use of Torture, 11 Harv. L. Rev. 220, 290, 296 (1897). In this way, the conceptions underlying the rule excluding coerced confessions and the privilege against self-incrimination have become, to some extent, assimilated. See 1 Stephen, A History of the Criminal Law of England (1883), 440; 1 Taylor on Evidence (12th ed. 1931) 556; Fraenkel, From Suspicion to Accusation, 51 Yale L. J. 748, 753 (1942); Report of the Royal Commission on Police Powers and Procedures [Cmd. 3297] (1929) 24; IV Wickersham, at 26–27. Our own decisions enforcing the Due Process Clause of the Fourteenth Amendment have made clear that "The aim of the requirement of due process is not to exclude presumptively false evidence, but to prevent fundamental unfairness in the use of evidence, whether true or false." *Lisenba* v. *California*, 314 U. S. 219, 236. See *Rogers* v. *Richmond*, decided this Term, and authorities cited therein. And see *State* v. *Smith*, 32 N. J. 501, 541–544, 161 A. 2d 520, 541–543 (1960).

[25] See *McNabb* v. *United States*, 318 U. S. 332, 342–343, n. 7. The most prevalent American provision is that requiring judicial examination "without unnecessary delay." See, *e. g.*, Fed. Rules Crim. Proc., 5 (a); Cal. Penal Code § 849; Ill. Rev. Stat., 1959, c. 38, § 660; N. Y. Code Crim. Proc. § 165; American Law Institute,

of administrative detention without probable cause and to the known risk of opportunity for third-degree practices which is allowed by delayed judicial examination.[27]

Code Crim. Proc., 1931, §§ 6, 35; and see 1 Alexander, The Law of Arrest (1949), 623–633. Some jurisdictions fix specific periods of permissible pre-examination detention. See Cal. Penal Code § 825 (without unnecessary delay; two-day maximum); Mo. Rev. Stat., 1959, § 544.170 (twenty hours unless prisoner charged and held by warrant); N. H. Rev. Stat., 1955, §§ 594:2, 594:19, 594:20, 594:22, 594:23 (four hour detention without arrest in certain cases; twenty-four hours after night arrest; examination without unreasonable delay if arrest is by warrant; other arrests require prompt examination; twenty-four-hour maximum); R. I. Gen. Laws, 1956, §§ 12–7–1, 12–7–13 (two hour detention without arrest in certain cases; twenty-four hours after arrest). Judicial decisions as to what constitutes unnecessary or unreasonable delay, under the pertinent statutes or at common law, are not wholly harmonious. Compare *Keefe* v. *Hart*, 213 Mass. 476, 100 N. E. 558 (jury could find one and a quarter hours unlawful), with *Lynn* v. *Weaver*, 251 Mich. 265, 231 N. W. 579 (four hours lawful); *Madsen* v. *Hutchison*, 49 Idaho 358, 290 P. 208 (five hours unlawful as matter of law; no extenuating circumstances found), with *Haggard* v. *First Nat. Bank of Mandan*, 72 N. D. 434, 8 N. W. 2d 5 (jury can find five hours lawful under circumstances); *Dragna* v. *White*, 45 Cal. 2d 469, 473, 289 P. 2d 428, 430 (dictum that less than two days may be unlawful under Cal. Penal Code § 825), with *People* v. *Sewell*, 95 Cal. App. 2d 850, 856, 214 P. 2d 113, 117 (suggestion that two-day detention is lawful under § 825; no consideration of circumstances). Cases can be found holding necessary or reasonable relatively long periods of delay. *E. g., People* v. *Kelly*, 404 Ill. 281, 288, 89 N. E. 2d 27, 30–31, *semble; Commonwealth* v. *Banuchi*, 335 Mass. 649, 141 N. E. 2d 835; *Mulberry* v. *Fuellhart*, 203 Pa. 573, 53 A. 504; *Peloquin* v. *Hibner*, 231 Wis. 77, 285 N. W. 380 (alternative holding); *United States ex rel. Goodchild* v. *Burke*, 245 F. 2d 88 (C. A. 7th Cir.) (Wisconsin law). But see *Mallory* v. *United States*, 354 U. S. 449.

Outside the United States, too, legislation requiring that arrested persons be brought before a magistrate within some fixed period of time is common, although the period fixed varies from country to country. See, *e. g.*, Criminal Code of Canada § 438 (2) (twenty-four

[*Footnote 27 is on p. 18.*]

Other statutes outlaw the sweating or beating or imprisonment of suspects for the purpose of extorting confessions,[25] or assure imprisoned suspects the right to communicate

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hours whenever a justice is available within twenty-four hours; if not, as soon thereafter as possible); Magistrates' Courts Act, 1952, 15 & 16 Geo. VI & 1 Eliz. II, c. 55, § 38 (police must release on recognizance persons arrested without warrant who cannot practicably be brought before a magistrate within twenty-four hours, unless the offense is serious); Criminal Procedure (Scotland) Act, 1887, 50 & 51 Vict., c. 35, § 17 (examination on declaration may be delayed forty-eight hours to permit person arrested to secure counsel); compare the new French Code de Procédure Pénale, Arts. 63, 77, 154 (twenty-four hour detentions for investigation in certain cases). For discussion of such foreign regulations, see Working Papers E through V, United Nations, 1958 Seminar on the Protection of Human Rights in Criminal Law and Procedure, Baguio City, Philippines (1958), and the Symposium: The Comparative Study of Conditional Release, 108 U. of Pa. L. Rev. 290–365 (1960).

In sum, it seems fair to say that there is unanimity for the proposition that "Strict observance of some reasonably definite and rather short time-limit for the detention of a prisoner after arrest without judicial sanction is vital to personal liberty." Statement by the Committee on the Bill of Rights of the American Bar Assn., Submitted to Subcommittee No. 2 of the Committee on the Judiciary, House of Representatives, in Chafee, Documents on Fundamental Human Rights, Pamphlets 1–3 (1951–1952), 480. But there is wide divergence of views concerning how definite is "reasonably definite" and how short is "rather short."

[27] Instances of third-degree treatment of prisoners almost invariably occur during the period between arrest and preliminary examination. IV Wickersham, at 169; Annual Report of the Committee on Criminal Courts, Law and Procedure for 1927–1928 to the Association of the Bar of the City of New York, Year Book, 1928, of the Assn. of the Bar, City of New York 235, 243, 253; Leibowitz, Law and Police Practice: Safeguards in the Law of Interrogation and Confessions, 52 Nw. U. L. Rev. 86, 87 (1957); Hall, The Law of Arrest in Relation to Contemporary Social Problems, 3 U. of Chi. L. Rev. 345, 357 (1936).

[28] *E. g.*, Ill. Rev. Stat., 1959, c. 38, § 379 (penalizing assault and battery or imprisonment by two or more persons for the purpose of obtaining confessions); Ky. Rev. Stat., 1960, § 422.110 (penalizing

with friends or legal counsel.[29] But because it is the courts which are charged, in the ultimate, both with the enforcement of the criminal law and with safeguarding the criminal defendant's rights to procedures consistent with fundamental fairness, the problem of reconciling society's need for police interrogation with society's need for protection from the possible abuses of police interrogation decisively devolves upon the courts, particularly in connection with the rules of evidence which regulate the admissibility of extrajudicial confessions. Under our federal system this task, with respect to local crimes, is, of course, primarily the responsibility of the state courts. The Fourteenth Amendment, however, limits their freedom in this regard. It subjects their broad powers to a limited, but searching, federal review and places upon this Court the obligation—with all the deference and caution which exercise of such a competence demands—to adjudicate what due process of law requires by way of restricting the state courts in their use of the products of police interrogation.

That judgment is what is at issue in this case.

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attempts by persons having custody of prisoners charged with crime to obtain incriminating information by plying with questions, by threats or by other wrongful means; confession so obtained made inadmissible in evidence).

[29] *E. g.*, Cal. Penal Code § 825 (attorneys permitted to see arrested persons; officers neglecting or refusing to permit such visits are guilty of a misdemeanor and civilly liable for statutory forfeiture); N. H. Rev. Stat., 1955, §§ 594:15, 594:16, 594:17 (relatives, friends and attorney to be notified of arrest and permitted to see person arrested; violation of these provisions made criminal); Tex. Penal Code, Art. 1176 (makes it unlawful for persons having prisoners in custody to prevent prisoners' consultation or communication with counsel). For citation to statutes employing various approaches to elimination of third-degree practices and the protection of prisoners' interests, see McCormick, Some Problems and Developments in the Admissibility of Confessions, 24 Tex. L. Rev. 239, 251–254 (1946).

III.

The dilemma posed by police interrogation of suspects in custody and the judicial use of interrogated confessions to convict their makers cannot be resolved simply by wholly subordinating one set of opposing considerations to the other. The argument that without such interrogation it is often impossible to close the hiatus between suspicion and proof, especially in cases involving professional criminals, is often pressed in quarters responsible and not unfeeling. It is the same argument that was once invoked to support the lash and the rack.[30] Where it has been put to this Court in its extreme form, as justifying the all-night grilling of prisoners under circumstances of sustained, week-long terror, we have rejected it. *Chambers* v. *Florida*, 309 U. S. 227, 240–241. "The Constitution proscribes such lawless means irrespective of the end."

But asking questions is not the lash or the rack, and to say that the argument *ex necessitate* is not the short answer to every situation in which it is invoked is not to dismiss it altogether. Due process does not demand of the States, in their administration of the criminal law, standards of favor to the accused which our civilization, in its most sensitive expression, has never found it practical to adopt. The principle of the Indian Evidence Act which excludes all confessions made to the

[30] Under the inquisitorial system as it was practiced with systematized torture (the system embodied, for example, in the French Ordinance of 1670), the rack was applied to suspects in whose cases the preliminary examination had developed indications of guilt sufficient to justify its use but insufficient to satisfy the severe burden of proof necessary to conviction. See Lowell, The Judicial Use of Torture, 11 Harv. L. Rev. 220, 224–228 (1897).

police or by persons while they are detained by the police [31] has never been accepted in England [32] or in this country.[33] Nor has the principle of the Scottish cases barring the use in evidence of a defendant's incriminating responses to police questioning at any time after suspicion has focused on him.[34] Rather, this

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[31] The Indian Evidence Act, 1872. Section 25 excludes confessions made to a police officer; § 26 excludes confessions made by any person while in the custody of a police officer, except in the immediate presence of a magistrate. However, § 27 provides that "when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police-officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved." Compare the bill, reported to have passed one house of the California Legislature in 1929, set out in Booth, Confessions, and Methods Employed in Procuring Them, 4 So. Calif. L. Rev. 83, 84–85, n. 3a (1930). And see the provision submitted without recommendation by the Commission on Penal Procedure at the Sixth Congress of the International Association of Democratic Lawyers, in Coe, Practices of Police and Prosecution Prior to Trial, 17 Law Guild Rev. 62, 64 (1957).

[32] *E. g., Ibrahim* v. *Rex*, [1914] A. C. 599 (P. C.); *Regina* v. *May*, 36 Cr. App. Rep. 91.

[33] *Hopt* v. *Utah*, 110 U. S. 574; *Sparf and Hansen* v. *United States*, 156 U. S. 51; *Pierce* v. *United States*, 160 U. S. 355. And see *Wilson* v. *United States*, 162 U. S. 613, 623; *Bilokumsky* v. *Tod*, 263 U. S. 149, 157.

[34] *Chalmers* v. *H. M. Advocate*, [1954] Sess. Cas. 66 (J. C.). As expressed in the opinion of the Lord Justice-General,

"... The theory of our law is that at the stage of initial investigation the police may question anyone with a view to acquiring information which may lead to the detection of the criminal; but that, when the stage has been reached at which suspicion, or more than suspicion, has in their view centred upon some person as the likely perpetrator of the crime, further interrogation of that person becomes very dangerous, and, if carried too far, *e. g.*, to the point of extracting a confession by what amounts to cross-examination, the evidence of that confession will almost certainly be excluded." *Id.*, at 78.

Court (in cases coming here from the lower federal courts),[35] the courts of England [36] and of Canada,[37] and the courts of all the States [38] have agreed in holding per-

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[35] *United States* v. *Carnigan*, 342 U. S. 36; cf. *United States* v. *Mitchell*, 322 U. S. 65. And see *Bram* v. *United States*, 168 U. S. 532, 558; *Ziang Sung Wan* v. *United States*, 266 U. S. 1, 14; *McNabb* v. *United States*, 318 U. S. 332, 346.

[36] *Rex* v. *Thornton*, 1 Mood. 27; *Rex* v. *Gilham*, 1 Mood. 186; *Rex* v. *Voisin*, [1918] 1 K. B. 531 (Crim. App.); *Regina* v. *Straffen*, [1952] 2 Q. B. 911 (Crim. App.); and see *Lambe's Case*, 2 Leach 552, 554. Irish courts reach the same result. *Rex* v. *Gibney*, Jebb's Res. Cas. 14; *Regina* v. *Johnston*, 15 Irish Common Law Rep. 60 (Crim. App.). Several English decisions at the end of the last century appeared to lay down a *per se* rule excluding confessions by persons questioned in custody, see *Regina* v. *Gavin*, 15 Cox C. C. 656; *Regina* v. *Male and Cooper*, 17 Cox C. C. 689, but these cases have since been laid to rest. *Rex* v. *Best*, [1909] 1 K. B. 692 (Crim. App.). Perhaps the best statement of the current English law, subject to some qualification with respect to the Judges' Rules, see text at notes 39–47, *infra*, is that in *Rex* v. *Voisin*, [1918] 1 K. B. 531, 539 (Crim. App.):

". . . [T]he mere fact that a statment is made in answer to a question put by a police constable is not in itself sufficient to make the statement inadmissible in law. It may be, and often is, a ground for the judge in his discretion excluding the evidence; but he should do so only if he thinks the statement was not a voluntary one . . . , or was an unguarded answer made under circumstances that rendered it unreliable, or unfair for some reason to be allowed in evidence against the prisoner." See *Ibrahim* v. *Rex*, [1914] A. C. 599, 610–614 (P. C.).

[37] *Boudreau* v. *Rex*, [1949] 3 D. L. R. 81 (S. C. Can.); *Rex* v. *Bellos*, [1927] 3 D. L. R. 186 (S. C. Can.); *Regina* v. *Day*, 20 Ont. 209 (Q. B.); *Regina* v. *Elliott*, 31 Ont. 14 (D. C.). In Canada, as in England, however, trial judges exercise a broad discretion to exclude confessions by prisoners in response to police questioning where, under all the circumstances, admission of the confessions is deemed unfair. See *Rex* v. *Anderson*, [1942] 3 D. L. R. 179 (C. A., B. C.). Compare *Rex* v. *Kooten*, [1926] 4 D. L. R. 771 (K. B., Man.), with the Canadian cases cited in notes 47 and 48, *infra*. And in both

[*Footnote 38 is on pp. 23–26.*]

missible the receipt of confessions secured by the questioning of suspects in custody by crime-detection officials. And, in a long series of cases, this Court has held that the

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countries the heavy burden placed on the Crown affirmatively to demonstrate the voluntariness of any offered statement as a condition of its admissibility, *Regina* v. *Thompson*, [1893] 2 Q. B. 12 (Cr. Cas. Res.), often operates to exclude interrogated confessions. See, *e. g.*, *Rex* v. *Chadwick*, 24 Crim. App. Rep. 138 (Recorder erred in determining issue of voluntariness on depositions; burden is on Crown affirmatively to show that confession is voluntary); *Rex* v. *Dick*, [1947] 2 D. L. R. 213 (C. A., Ont.); *Rex* v. *Howlett*, [1950] 2 D. L. R. 517 (C. A., Ont.). The Canadian law is discussed in Kaufman, The Admissibility of Confessions in Criminal Matters (1960).

[38] Alabama: *Ingram* v. *State*, 252 Ala. 497, 42 So. 2d 36 (1949); *Myhand* v. *State*, 259 Ala. 415, 66 So. 2d 544 (1953). Arizona: *State* v. *Miller*, 62 Ariz. 529, 158 P. 2d 669 (1945); *Hightower* v. *State*, 62 Ariz. 351, 158 P. 2d 156 (1945), *semble*; *State* v. *Jordan*, 83 Ariz. 248, 320 P. 2d 446 (1958), *semble*. Arkansas: *State* v. *Browning*, 206 Ark. 791, 178 S. W. 2d 77 (1944); *Moore* v. *State*, 229 Ark. 335, 315 S. W. 2d 907 (1958); and see *Dorsey* v. *State*, 219 Ark. 101, 240 S. W. 2d 30 (1951). California: *People* v. *Bashor*, 48 Cal. 2d 763, 312 P. 2d 255 (1957); and see *Rogers* v. *Superior Court*, 46 Cal. 2d 3, 291 P. 2d 929 (1955). Colorado: *Cahill* v. *People*, 111 Colo. 29, 137 P. 2d 673 (1943); *Downey* v. *People*, 121 Colo. 307, 215 P. 2d 892 (1950); *Leick* v. *People*, 136 Colo. 535, 322 P. 2d 674 (1958). Connecticut: *State* v. *Zukauskas*, 132 Conn. 450, 45 A. 2d 289 (1945); *State* v. *Buteau*, 136 Conn. 113, 68 A. 2d 681 (1949); and see *State* v. *Guastamachio*, 137 Conn. 179, 75 A. 2d 429 (1950). Delaware: *Garner* v. *State*, 51 Del. (1 Stor.) 301, 145 A. 2d 68 (1958). Florida: *Graham* v. *State*, 91 So. 2d 662 (Fla. 1956); *Singer* v. *State*, 109 So. 2d 7, 26 (Fla. 1959); and see *Finley* v. *State*, 153 Fla. 394, 14 So. 2d 844 (1943); *Rollins* v. *State*, 41 So. 2d 885 (Fla. 1949). Georgia: *Bryant* v. *State*, 191 Ga. 686, 13 S. E. 2d 820 (1941), 197 Ga. 641, 30 S. E. 2d 259 (1944); *Russell* v. *State*, 196 Ga. 275, 26 S. E. 2d 528 (1943); and see *Ferguson* v. *State*, 215 Ga. 117, 109 S. E. 2d 44 (1959), rev'd on other grounds, — U. S. —. Hawaii: *Territory* v. *Young and Nozawa*, 37 Haw. 189 (1945); *Territory* v. *Aquino*, 43 Haw. 347 (1959). Idaho: *State* v. *Behler*, 65 Idaho 464, 146 P. 2d 338 (1944), *semble*; and see *State* v. *Johnson*, 74 Idaho 269, 261 P. 2d 638 (1953). Illinois: *People* v. *Lazenby*, 403 Ill. 95, 85 N. E. 2d 660 (1949); *People* v. *Hall*, 413 Ill. 615, 110 N. E. 2d 249 (1953); *Davies* v. *People*, 10 Ill. 2d 11, 139 N. E. 2d

Fourteenth Amendment does not prohibit a State from such detention and examination of a suspect as, under all the circumstances, is found not to be coercive. See

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216 (1956); *People* v. *Goard*, 11 Ill. 2d 495, 144 N. E. 2d 603 (1957); *Napue* v. *People*, 13 Ill. 2d 566, 571, 150 N. E. 2d 613, 616 (1958) (dictum), rev'd on other grounds, 360 U. S. 264; *People* v. *Miller*, 13 Ill. 2d 84, 148 N. E. 2d 455 (1958); and see *People* v. *Lettrich*, 413 Ill. 172, 108 N. E. 2d 488 (1952). Indiana: *Krauss* v. *State*, 229 Ind. 625, 100 N. E. 2d 824 (1951); *Pearman* v. *State*, 233 Ind. 111, 117 N. E. 2d 362 (1954); and see *Davis* v. *State*, 235 Ind. 620, 137 N. E. 2d 30 (1956). Iowa: *State* v. *Williams*, 245 Iowa 494, 62 N. W. 2d 742 (1954); *State* v. *Harriott*, 248 Iowa 25, 79 N. W. 2d 332 (1956); *State* v. *Triplett*, 248 Iowa 339, 79 N. W. 2d 391 (1956). Kansas: *State* v. *Vargas*, 180 Kan. 716, 308 P. 2d 81 (1957); and see *State* v. *Smith*, 158 Kan. 645, 149 P. 2d 600 (1944). Kentucky: *Commonwealth* v. *Mahew*, 297 Ky. 172, 178 S. W. 2d 928 (1943); *Curtis* v. *Commonwealth*, 312 Ky. 205, 226 S. W. 2d 753 (1949); *Reed* v. *Commonwealth*, 312 Ky. 214, 226 S. W. 2d 513 (1949); *Milam* v. *Commonwealth*, 275 S. W. 921 (Ky. 1955); *Karl* v. *Commonwealth*, 288 S. W. 2d 628 (Ky. 1956). Louisiana: *State* v. *Holmes*, 205 La. 730, 18 So. 2d 40 (1944); *State* v. *Joseph*, 217 La. 175, 46 So. 2d 118 (1950); *State* v. *Solomon*, 222 La. 269, 62 So. 2d 481 (1952); *State* v. *Weston*, 232 La. 766, 95 So. 2d 305 (1957); and see *State* v. *Green*, 221 La. 713, 60 So. 2d 208 (1952). Maine: *State* v. *Priest*, 117 Me. 223, 103 A. 359 (1918). Maryland: *Cox* v. *State*, 192 Md. 525, 64 A. 2d 732 (1949); *James* v. *State*, 193 Md. 31, 65 A. 2d 888 (1949); *Merchant* v. *State*, 217 Md. 61, 141 A. 2d 487 (1958). Massachusetts: *Commonwealth* v. *Mabey*, 299 Mass. 96, 12 N. E. 2d 61 (1937); *Commonwealth* v. *Banuchi*, 335 Mass. 649, 141 N. E. 2d 835 (1957). Michigan: *People* v. *La Panne*, 255 Mich. 38, 237 N. W. 38 (1931), *semble*; and see *People* v. *Hamilton*, 359 Mich. 410, 416–417, 102 N. W. 2d 738 (1960). Minnesota: *State* v. *Schabert*, 222 Minn. 261, 24 N. W. 2d 846 (1946). Mississippi: *Winston* v. *State*, 209 Miss. 799, 48 So. 2d 513 (1950), *semble*; *Crouse* v. *State*, 229 Miss. 15, 89 So. 2d 919 (1956), *semble*. Missouri: *State* v. *Ellis*, 354 Mo. 998, 193 S. W. 2d 31 (1946); *State* v. *Francies*, 295 S. W. 2d 8 (Mo. 1956); *State* v. *Smith*, 310 S. W. 2d 845 (Mo. 1958); and see *State* v. *Lee*, 361 Mo. 163, 233 S. W. 2d 666 (1950). Montana: *State* v. *Dixson*, 80 Mont. 181, 260 P. 138 (1927); *State* v. *Robuck*, 126 Mont. 302, 248 P. 2d 817 (1952). Nebraska: *Kitts* v. *State*, 151 Neb. 679, 39 N. W. 2d 283 (1949); *Gallegos* v. *State*, 152 Neb. 831, 43 N. W. 2d 1 (1950), aff'd, 342 U. S. 55; *Parker* v. *State*,

Lisenba v. *California*, 314 U. S. 219; *Lyons* v. *Oklahoma*, 322 U. S. 596; *Gallegos* v. *Nebraska*, 342 U. S. 55; *Brown* v. *Allen*, 344 U. S. 443; *Stein* v. *New York*, 346 U. S. 156,

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164 Neb. 614, 83 N. W. 2d 347 (1957). Nevada: *State* v. *Boudreau*, 67 Nev. 36, 214 P. 2d 135 (1950); *Ex parte Sefton*, 73 Nev. 2, 306 P. 2d 771 (1957). New Hampshire: *State* v. *Howard*, 17 N. H. 171 (1845); and see *State* v. *George*, 93 N. H. 408, 43 A. 2d 256 (1945). New Jersey: *State* v. *Pierce*, 4 N. J. 252, 72 A. 2d 305 (1950); *State* v. *Cooper*, 10 N. J. 532, 92 A. 2d 786 (1952); *State* v. *Grillo*, 11 N. J. 173, 93 A. 2d 328 (1952); *State* v. *Wise*, 19 N. J. 59, 115 A. 2d 62 (1955); *State* v. *Smith*, 32 N. J. 501, 161 A. 2d 520 (1960). New Mexico: *State* v. *Lindemuth*, 56 N. M. 257, 243 P. 2d 325 (1952); *State* v. *Griego*, 61 N. M. 42, 294 P. 2d 282 (1956); *State* v. *Padilla*, 66 N. M. 289, 347 P. 2d 312 (1959). New York: *People* v. *Perez*, 300 N. Y. 208, 90 N. E. 2d 40 (1949); *People* v. *Spano*, 4 N. Y. 2d 256, 150 N. E. 2d 226 (1958), rev'd, 360 U. S. 315; *People* v. *Vargas*, 7 N. Y. 2d 555, 166 N. E. 2d 831 (1960); and see *People* v. *Alex*, 265 N. Y. 192, 192 N. E. 289 (1934); *People* v. *Elmore*, 277 N. Y. 397, 14 N. E. 2d 451 (1938); *People* v. *Lovello*, 1 N. Y. 2d 436, 136 N. E. 2d 483 (1956). But see *People* v. *Di Biasi*, 7 N. Y. 2d 544, 166 N. E. 2d 825 (1960) (post-indictment). North Carolina: *State* v. *Brown*, 233 N. C. 202, 63 S. E. 2d 99 (1951); *State* v. [redacted] 233 N. C. 390, 64 S. E. 2d 572 (1951); *State* v. *Davis*, 253 N. [redacted] 86, 116 S. E. 2d 365 (1960). North Dakota: *State* v. *Nagel*, 75 N. D. 495, 28 N. W. 2d 665 (1947); *State* v. *Braathen*, 77 N. D. 309, 43 N. W. 2d 202 (1950). Ohio: *State* v. *Collett*, 58 N. E. 2d 417 (Ohio App. 1944), app. dism'd, 144 Ohio St. 639, 60 N. E. 2d 170 (1945); *State* v. *Lowder*, 79 Ohio App. 237, 72 N. E. 2d 785 (1946), app. dism'd, 147 Ohio St. 530, 72 N. E. 2d 102 (1947). Oklahoma: *Fry* v. *State*, 78 Okla. Cr. 299, 147 P. 2d 803 (1944); *Hendrickson* v. *State*, 93 Okla. Cr. 379, 229 P. 2d 196 (1951); *Thacker* v. *State*, 309 P. 2d 306 (Okla. Cr., 1957); and see *Application of Fowler*, 356 P. 2d 770, 778 (Okla. Cr., 1960). Oregon: *State* v. *Folkes*, 174 Ore. 568, 150 P. 2d 17 (1944); *State* v. *Nunn*, 212 Ore. 546, 321 P. 2d 356 (1958); and see *State* v. *Leland*, 190 Ore. 598, 227 P. 2d 785 (1951), aff'd, 343 U. S. 790 (1952). Pennsylvania: *Commonwealth* v. *Agoston*, 364 Pa. 464, 72 A. 2d 575 (1950); *Commonwealth* v. *Bibalo*, 375 Pa. 257, 100 A. 2d 45 (1953); *Commonwealth ex rel. Sleighter* v. *Banmiller*, 392 Pa. 133, 139 A. 2d 918 (1958). Rhode Island: *State* v. *Andrews*, 86 R. I. 341, 134 A. 2d 425 (1957). South Carolina: *State* v. *Brown*, 212 S. C. 237, 47 S. E. 2d 521 (1948); *State* v. *Bullock*,

184; *Crooker* v. *California*, 357 U. S. 433; *Cicenia* v. *Lagay*, 357 U. S. 504. And see *Townsend* v. *Burke*, 334 U. S. 736, 738.

It is true that the English courts have long tended severely to discourage law enforcement officers from asking questions of persons under arrest or who are so far suspected that their arrest is imminent. The judges have many times deprecated the practice even while receiving

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235 S. C. 356, 111 S. E. 2d 657 (1959); and see *State* v. *Chasteen*, 228 S. C. 88, 88 S. W. 2d 880 (1955). South Dakota: *State* v. *Landers*, 21 S. D. 606, 114 N. W. 717 (1908); *State* v. *Nicholas*, 62 S. D. 511, 253 N. W. 737 (1934), *semble*. Tennessee: *Wynn* v. *State*, 181 Tenn. 325, 181 S. W. 2d 332 (1944); *Ford* v. *State*, 184 Tenn. 443, 201 S. W. 2d 539 (1945); *Taylor* v. *State*, 191 Tenn. 670, 235 S. W. 2d 818 (1950); and see *McGhee* v. *State*, 183 Tenn. 20, 189 S. W. 2d 826 (1945); *Acklen* v. *State*, 196 Tenn. 314, 267 S. W. 2d 101 (1954). Texas: *Dimery* v. *State*, 156 Tex. Cr. R. 197, 240 S. W. 2d 293 (1951); *Leviness* v. *State*, 157 Tex. Cr. R. 160, 247 S. W. 2d 115 (1952); *Golemon* v. *State*, 157 Tex. Cr. R. 534, 247 S. W. 2d 119 (1952); *LeFors* v. *State*, 161 Tex. Cr. R. 544, 278 S. W. 2d 837 (1954); *Walker* v. *State*, 162 Tex. Cr. R. 408, 286 S. W. 2d 144 (1955); *Childress* v. *State*, 166 Tex. Cr. R. 95, 312 S. W. 2d 247 (1958). Utah: *Mares* v. *Hill*, 118 Utah 484, 222 P. 2d 811 (1950); and see *State* v. *Gardner*, 119 Utah 579, 230 P. 2d 559 (1951); *State* v. *Braasch*, 119 Utah 450, 229 P. 2d 289 (1951). Vermont: *State* v. *Blair*, 118 Vt. 81, 99 A. 2d 677 (1953); *State* v. *Goyet*, 120 Vt. 12, 132 A. 2d 623 (1957). Virginia: *James* v. *Commonwealth*, 192 Va. 713, 66 S. E. 2d 513 (1951); *Campbell* v. *Commonwealth*, 194 Va. 825, 75 S. E. 2d 468 (1953); *Mendoza* v. *Commonwealth*, 199 Va. 961, 103 S. E. 2d 1 (1958). Washington: *State* v. *Winters*, 39 Wash. 2d 545, 236 P. 2d 1038 (1951); *State* v. *Johnson*, 53 Wash. 2d 666, 335 P. 2d 809 (1959). West Virginia. *State* v. *Digman*, 121 W. Va. 499, 5 S. E. 2d 113 (1939); *State* v. *Bruner*, 143 W. Va. 755, 105 S. E. 2d 140 (1958); and see *State* v. *Brady*, 104 W. Va. 523, 140 S. E. 546 (1927). Wisconsin: *State* v. *Fransisco*, 257 Wis. 247, 43 N. W. 2d 38 (1950); *Kiefer* v. *State*, 258 Wis. 47, 44 N. W. 2d 537 (1950); *State* v. *Babich*, 258 Wis. 290, 45 N. W. 2d 660 (1951); *State* v. *Stortecky*, 273 Wis. 362, 77 N. W. 2d 721 (1956); *State* v. *Bronston*, 7 Wis. 2d 627, 97 N. W. 2d 504, 98 N. W. 2d 468 (1959). Wyoming: *Mortimore* v. *State*, 24 Wyo. 452, 161 P. 766 (1916); *State* v. *Lantzer*, 55 Wyo. 230, 99 P. 2d 73 (1940).

in evidence the confessions it has produced.[39] The manual known as the Judges' Rules, first issued in 1912, augmented in 1918, and clarified by a Home Office Circular published in 1930, embodies the attitude of the English Bench in this regard.[40] While encouraging police officers

[39] *Regina* v. *Berriman*, 6 Cox C. C. 388, 388–389 ("I very much disapprove of this proceeding. By the law of this country, no person ought to be [*sic*] made to criminate himself, and no police officer has any right, until there is clear proof of a crime having been committed, to put searching questions to a person for the purpose of eliciting from him whether an offence has been perpetrated or not. If there is evidence of an offence, a police officer is justified, after a proper caution, in putting to a suspected person interrogatories with a view to ascertaining whether nor not there are fair and reasonable grounds for apprehending him. Even this course should be very sparingly resorted to. . . . I wish it to go forth amongst those who are inferior officers in the administration of justice, that such a practice is entirely opposed to the spirit of our law."); *Regina* v. *Mick*, 3 F. & F. 822, 823 ("I entirely disapprove of the system of police officers examining prisoners. The law has surrounded prisoners with great precautions to prevent confessions being extorted from them, and the magistrates are not allowed to question prisoners, or to ask them what they have to say; and it is not for policemen to do these things. It is assuming the functions of the magistrate without those precautions which the magistrates are required by the law to use, and assuming functions which are entrusted to the magistrates and to them only."); *Regina* v. *Reason*, 12 Cox C. C. 228, 229 ("It is the duty of the police-constable to hear what the prisoner has voluntarily to say, but after the prisoner is taken into custody it is not the duty of the police-constable to ask questions."); *Regina* v. *Cheverton*, 2 F. & F. 833, 835; *Regina* v. *Regan*, 17 Law Times Rep. (N. S.) 325, 326.

[40] The first four of the rules, drawn up by the judges of the King's Bench at the request of the Home Secretary, were circulated in 1912. Their text is set forth in *Rex* v. *Voisin*, [1918] 1 K. B. 531, 539, n. (3). A memorandum approved by the judges in 1918 increased their number to nine. See 145 Law Times 389 (Sept. 28, 1918). Ambiguities in the rules were pointed out by a Royal Commission in 1929, see Report of the Royal Commission on Police Powers and Procedure [Cmd. 3297] (1929) 69–74, and in response to the Commission's observations a clarifying circular was issued by the Home Office in 1930 with the approval of the judges. See 6 Police

to put questions to all possibly informed persons, whether or not suspected, during the early phase of their investigation which aims at discovering who committed the offense, the Rules admonish that so soon as the officers make up their minds to charge a particular person with a crime, they should caution him, first, that he need say nothing and, second, that what he says may be used in evidence, before questioning him or questioning him further. Persons in custody are not to be questioned, except that when a prisoner, having been cautioned, volunteers a statement, such questions may be asked as are fairly needed to remove ambiguities, so long as the questioner does not seek to elicit information beyond the scope of what the prisoner has offered. If two or more persons are charged with an offense and the police have taken the statement of one of them, copies may be furnished to the others but nothing should be said or done to invite a reply.[41] The Judges' Rules are not "law" in the sense

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Journal (1933) 342, 352–356; 1 Taylor on Evidence (12th ed. 1931) 557–559. Further Home Office Circulars in 1947 and 1948 were approved by the Lord Chief Justice. For the text of the Rules and Circulars as presently in operation, see 1 Stone's Justices' Manual (92d ed. 1960) 353–356. See also Devlin, The Criminal Prosecution in England (1958), 38–42, 137–141. The Home Secretary recently responded to Parliament that he had been in touch with the Lord Chief Justice, who had agreed that the time had come when it would be appropriate for the judges to carry out a review of the scope and operation of the Judges' Rules, 636 H. C. Deb., Hansard, No. 75 [written answers] 145 (March 16, 1961).

[41] The Rules, in pertinent part, are:

"(1) When a police officer is endeavouring to discover the author of a crime, there is no objection to his putting questions in respect thereof, to any person or persons, whether suspected or not, from whom he thinks that useful information can be obtained.

"(2) Whenever a police officer has made up his mind to charge a person with a crime, he should first caution such person before asking any questions or any further questions, as the case may be.

"(3) Persons in custody should not be questioned without the usual caution being first administered. [*Note 41 continued on p. 29.*]

that any violation of them by a questioning officer *eo ipso* renders inadmissible in evidence whatever incriminatory responses he may obtain.[42] But it is clear that the judges

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"(4) If the prisoner wishes to volunteer any statement, the usual caution should be administered . . . .

"(7) A prisoner making a voluntary statement must not be cross-examined, and no questions should be put to him about it except for the purpose of removing ambiguity in what he has actually said. For instance, if he has mentioned an hour without saying whether it was morning or evening, or has given a day of the week and day of the month which do not agree, or has not made it clear to what individual or what place he intended to refer in some part of his statement, he may be questioned sufficiently to clear up the point.

"(8) When two or more persons are charged with the same offence and statements are taken separately from the persons charged, the police should not read these statements to the other persons charged, but each of such persons should be furnished by the police with a copy of such statements and nothing should be said or done by the police to invite a reply. If the person charged desires to make a statement in reply, the usual caution should be administered."

These must be read in connection with the Home Office Circular of 1930, which states:

"Rule 3 was never intended to encourage or authorize the questioning or cross-examination of a person in custody after he has been cautioned, on the subject of the crime for which he is in custody, and long before this Rule was formulated, and since, it has been the practice for the Judge not to allow any answer to a question so improperly put to be given in evidence; but in some cases it may be proper and necessary to put questions to a person in custody after the caution has been administered. For instance, a person arrested for a burglary may, before he is formally charged, say, 'I have hidden or thrown the property away,' and after caution he would properly be asked, 'Where have you hidden or thrown it?'; or a person, before he is formally charged as a habitual criminal, is properly asked to give an account of what he has done since he last came out of prison. Rule 3 is intended to apply to such cases and, so understood, is not in conflict with and does not qualify Rule 7, which prohibits any question upon a voluntary statement except such as is necessary to clear up ambiguity."

[42] *Regina* v. *Wattam*, 36 Crim. App. Rep. 72, 77; *Regina* v. *Straffen*, [1952] 2 Q. B. 911, 914 (Crim. App.).

presiding at criminal trials have broad discretion to exclude any confession procured by methods which offend against the letter or the spirit of the Rules,[43] and violations have in a few instances seemed to influence, although not to control, the judgment of the Court of Criminal Appeal in quashing convictions.[44] For these reasons, and because of the respect which attaches to the Rules in view of their source, they have doubtless had a pervasive effect upon actual police practices, and they appear to be regarded by the constabulary as a more or less infrangible code.[45] Inasmuch as the same conception is shared by counsel for the Crown, the contemporary English reports do not disclose cases involving the sort of claims of coercion so frequently litigated in our courts. It may well be that their circumstances seldom arise; [46]

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[43] *Ibid.*; *Rex* v. *May*, 36 Crim. App. Rep. 91, 93; *Rex* v. *Voisin*, [1918] 1 K. B. 531, 539–540; see "Questioning an Accused Person," 92 J. P. 743, 758 (1928); Brownlie, Police Questioning, Custody and Caution, [1960] Crim. L. Rev. 298.

[44] See *Rex* v. *Dwyer*, 23 Crim. App. Rep. 156; *Regina* v. *Bass*, 37 Crim. App. Rep. 51.

[45] See Devlin, The Criminal Prosecution in England (1958), *passim*.

[46] No doubt the Judges' Rules are sometimes broken, but the reported breaches themselves seem relatively mild—compared with what is common American police practice—so that even these appear to support the conclusion that, in the large, the tenor of the Rules is that which prevails in practical operation among the English constabulary. See the several articles composing the "Special Issue on Police Questioning," [1960] Crim. L. Rev. 298–356; Elliott, Book Review, 5 J. Soc. Public Teachers of Law (N. S.) 230 (1960).

The furor, both within and without Parliament, raised by an afternoon's questioning of Miss Savidge, is illuminating. See Inquiry In Regard to the Interrogation By the Police of Miss Savidge, Report of the Tribunal appointed under the Tribunals of Inquiry (Evidence) Act, 1921 [Cmd. 3147] (1928); 217 H. C. Deb. 1216–1220, 1303–1339, 1921–1931 (5th ser. 1928). So is the comment to

when they do, the Crown does not offer the confession; if it were offered—in a case, for example, where several hours of questioning could be shown—the trial judge would almost certainly exclude it."[47]

This principle by which the English trial judges have supplemented the traditional Anglo-American rule that confessions are admissible if voluntary, by the exercise of a discretion to exclude incriminating statements procured by methods deemed oppressive although not deemed fundamentally inconsistent with accusatorial criminal procedure [48] has not been imitated in the United States.[49] In 1943 this Court, in *McNabb* v. *United States*, 318 U. S. 332, drew upon its supervisory authority over the administration of federal criminal justice to inagurate an exclusionary practice considerably less stringent than the English. That practice requires the exclusion of any confession "made during illegal detention due to failure promptly to carry a prisoner before a committing magistrate, whether or not the 'confession is the result of torture, physical or psychological. . . .'" *Upshaw* v.

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which the English practice has sometimes given occasion. See, *e. g.*, Forsyth, The History of Lawyers (1875), 282, n. 1: "Not long ago, at a trial at the Central Criminal Court, a policeman was asked whether the prisoner had not made a statement. He answered, 'No: he was beginning to do so; *but I knew my duty better*, and I prevented him.'"

[47] See the 1905 decision, *Rex* v. *Knight*, 21 T. L. Rep. 310; and see *Rex* v. *Kay*, 11 B. C. 157.

[48] Compare *Rex* v. *Godwin*, [1924] 2 D. L. R. 362 (K. B., N. B.), with *Ibrahim* v. *Rex*, [1914] A. C. 599 (P. C.). And see *Rex* v. *Pattison*, 21 Cr. App. Rep. 139.

[49] The Judges' Rules' requirement of a caution has been adopted, however, and made a condition of admissibility of incriminating statements, by the Uniform Code of Military Justice, 10 U. S. C. § 831. The same requirement, with certain exceptions, prevails by statute in Texas. Tex. Code Crim. Proc., Arts. 726, 727. Compare S. 3325, 85th Cong., 2d Sess.

United States, 335 U. S. 410, 413.[50] Its purpose is to give effect to the requirement that persons arrested be brought without unnecessary delay before a judicial officer—a safeguard which our society, like other civilized societies, has found essential to the protection of personal liberty.[51]

The *McNabb* case was an innovation which derived from our concern and responsibility for fair modes of criminal proceeding in the federal courts.[52] The States, in the large, have not adopted a similar exclusionary prin-

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[50] In *McNabb*, our decision turned on the failure of the arresting officers to comply with procedures prescribed by federal statutes then in effect requiring prompt production of persons arrested for preliminary examination. Compare *Anderson* v. *United States*, 318 U. S. 350. The *Upshaw* case and *Mallory* v. *United States*, 354 U. S. 449, carried the same exclusionary rule over in implementation of Fed. Rules Crim. Proc., 5 (a). Of course, our decision in *United States* v. *Mitchell*, 322 U. S. 65, makes clear that confessions made during the period immediately following arrest and before delay becomes unlawful are not to be excluded under the rule.

[51] 318 U. S., at 343–344:

". . . The awful instruments of the criminal law cannot be entrusted to a single functionary. The complicated process of criminal justice is therefore divided into different parts, responsibility for which is separately vested in the various participants upon whom the criminal law relies for its vindication. Legislation . . . requiring that the police must with reasonable promptness show legal cause for detaining arrested persons, constitutes an important safeguard—not only in assuring protection for the innocent but also in securing conviction of the guilty by methods that commend themselves to a progressive and self-confident society. For this procedural requirement checks resort to those reprehensible practices known as the 'third degree' which, though universally rejected as indefensible, still find their way into use. It aims to avoid all the evil implications of secret interrogation of persons accused of crime. It reflects not a sentimental but a sturdy view of law enforcement. It outlaws easy but self-defeating ways in which brutality is substituted for brains as an instrument of crime detection." See notes 26, 27, *supra*.

[52] Prior to *McNabb*, the rule prevailing in the federal courts made voluntariness the test of admissibility. *Ziang Sung Wan* v. *United States*, 266 U. S. 1. See also *Bram* v. *United States*, 168 U. S. 532.

ciple.[53] And although we adhere unreservedly to *McNabb* for federal criminal cases, we have not extended its rule to state prosecutions as a requirement of the Fourteenth Amendment. *Gallegos* v. *Nebraska*, 342 U. S. 55, 63–64 (opinion of Reed, J.); *Brown* v. *Allen*, 344 U. S. 443, 476; *Stein* v. *New York*, 346 U. S. 156, 187–188; cf. *Lyons* v. *Oklahoma*, 322 U. S. 596, 597–598, n. 2; *Townsend* v. *Burke*, 334 U. S. 736, 738; *Stroble* v. *California*, 343 U. S. 181, 197.

In light of our past opinions and in light of the wide divergence of views which men may reasonably maintain concerning the propriety of various police investigative procedures not involving the employment of obvious brutality, this much seems certain: It is impossible for this Court, in enforcing the Fourteenth Amendment, to attempt precisely to delimit, or to surround with specific,

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[53] See cases cited in note 38, *supra*. Alabama, Arizona, Arkansas, California, Connecticut, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Louisiana (*semble*), Maryland, Massachusetts (*semble*), Mississippi, Missouri, Nevada, New Jersey, New York, North Carolina (*semble*), North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania (no prompt-arraignment statute), Rhode Island (*semble*), Tennessee (no prompt-arraignment statute), Texas, Utah, Vermont (*semble*), Virginia, Washington and Wisconsin (*semble*) have expressly rejected *McNabb*. Colorado appears clearly to reject it. Minnesota also appears to reject it, the decision in *State* v. *Schabert*, 222 Minn. 261, 24 N. W. 2d 846, qualifying whatever suggestion might have been inferred from the opinion in the earlier appeal of the same case, 218 Minn. 1, 15 N. W. 2d 585, that *McNabb* would be followed. There is dictum in Kentucky suggesting that protracted pre-arraignment delay would not *eo ipso* cause exclusion of a confession. *Reed* v. *Commonwealth*, 312 Ky. 214, 218, 226 S. W. 2d 513, 514–515 (1949). Idaho, where *State* v. *Johnson*, 74 Idaho 269, 261 P. 2d 638, limits and in part overrules *State* v. *Kotthoff*, 67 Idaho 319, 177 P. 2d 474 (a decision whose reasoning seems in some respects similar to that of *McNabb*) must now be regarded as uncommitted. The only State to follow *McNabb* is Michigan. *People* v. *Hamilton*, 359 Mich. 410, 102 N. W. 2d 738.

all-inclusive restrictions, the power of interrogation allowed to state law enforcement officers in obtaining confessions. No single litmus-paper test for constitutionally impermissible interrogation has been evolved: neither extensive cross-questioning—deprecated by the English judges; nor undue delay in arraignment—proscribed by *McNabb;* nor failure to caution a prisoner—enjoined by the Judges' Rules; nor refusal to permit communication with friends and legal counsel at stages in the proceeding when the prisoner is still only a suspect—prohibited by several state statutes. See *Lisenba* v. *California,* 314 U. S. 219; *Crooker* v. *California,* 357 U. S. 433; *Ashdown* v. *Utah,* 357 U. S. 426.

Each of these factors, in company with all of the surrounding circumstances—the duration and conditions of detention (if the confessor has been detained), the manifest attitude of the police toward him, his physical and mental state, the diverse pressures which sap or sustain his powers of resistance and self-control—is relevant.[54] The ultimate test remains that which has been the only clearly established test in Anglo-American courts for two hundred years: the test of voluntariness. Is the confes-

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[54] Cf. *Cicenia* v. *Lagay,* 357 U. S. 504, 509:

". . . On the one hand, it is indisputable that the right to counsel in criminal cases has a high place in our scheme of procedural safeguards. On the other hand, it can hardly be denied that adoption of petitioner's position [that any state denial of a defendant's request to confer with counsel during police questioning violates due process] would constrict state police activities in a manner that in many instances might impair their ability to solve difficult cases. A satisfactory formula for reconciling these competing concerns is not to be found in any broad pronouncement that one must yield to the other in all instances. Instead, . . . this Court, in judging whether state prosecutions meet the requirements of due process, has sought to achieve a proper accommodation by considering a defendant's lack of counsel one pertinent element in determining from all the circumstances whether a conviction was attended by fundamental unfairness."

sion the product of an essentially free and unconstrained choice by its maker? If it is, if he has willed to confess, it may be used against him. If it is not, if his will has been overborne and his capacity for self-determination critically impaired, the use of his confession offends due process. *Rogers* v. *Richmond*, — U. S. —. The line of distinction is that at which governing self-direction is lost and compulsion, of whatever nature or however infused, propels or helps to propel the confession.

IV.

The inquiry whether, in a particular case, a confession was voluntarily or involuntarily made involves, at the least, a three-phased process. First, there is the business of finding the crude historical facts, the external, "phenomenological" occurrences and events surrounding the confession. Second, because the concept of "voluntariness" is one which concerns a mental state, there is the imaginative recreation, largely inferential, of internal, "psychological" fact. Third, there is the application to this psychological fact of standards for judgment informed by the larger legal conceptions ordinarily characterized as rules of law but which, also, comprehend both induction from, and anticipation of, factual circumstances.

In a case coming here from the highest court of a State in which review may be had, the first of these phases is definitely determined, normally, by that court. Determination of what happened requires assessments of the relative credibility of witnesses whose stories, in cases involving claims of coercion, are frequently, if indeed not almost invariably, contradictory. That ascertainment belongs to the trier of facts before whom those witnesses actually appear, subject to whatever corrective powers a State's appellate processes afford.

This means that all testimonial conflict is settled by the judgment of the state courts. Where they have made ex-

plicit findings of fact, those findings conclude us and form the basis of our review—with the one *caveat*, necessarily, that we are not to be bound by findings wholly lacking support in evidence. See *Thompson* v. *Louisville*, 362 U. S. 199. Where there are no explicit findings, or in the case of *lacunae* among the findings, the rejection of a federal constitutional claim by state criminal courts applying proper constitutional standards [55] resolves all conflicts in testimony bearing on that claim against the criminal defendant. In such instances, we consider only the uncontested portions of the record: the evidence of the prosecution's witnesses and so much of the evidence for the defense as, fairly read in the context of the record as a whole, remains uncontradicted. *Ashcraft* v. *Tennessee*, 322 U. S. 143, 152–153; *Lyons* v. *Oklahoma*, 322 U. S. 596, 602–603; *Watts* v. *Indiana*, 338 U. S. 49, 50–52 (opinion of FRANKFURTER, J.); *Gallegos* v. *Nebraska*, 342 U. S. 55, 60–62; *Stein* v. *New York*, 346 U. S. 156, 180–182; *Payne* v. *Arkansas*, 356 U. S. 560, 561–562; *Thomas* v. *Arizona*, 356 U. S. 390, 402–403.

The second and third phases of the inquiry—determination of how the accused reacted to the external facts, and of the legal significance of how he reacted—although distinct as a matter of abstract analysis, become in practical operation inextricably interwoven. This is so, in part, because the concepts by which language expresses an otherwise unrepresentable mental reality are themselves generalizations importing preconceptions about the reality

[55] The record in this case does not make clear, as did that in *Rogers* v. *Richmond*, — U. S. —, that the legal standard applied by the trial judge in passing upon the admissibility of Culombe's confessions was, under this Court's decisions, an impermissible one. In view of the disposition which we make upon the facts of this case, viewed under the assumption that a proper criterion of judgment was employed below, we need not further pursue the inquiry whether the trial judge's standard satisfied the constitutional requirements regarding coercion.

to be expressed. It is so, also, because the apprehension of mental states is almost invariably a matter of induction, more or less imprecise, and the margin of error which is thus introduced into the finding of "fact" must be accounted for in the formulation and application of the "rule" designed to cope with such classes of facts. The notion of "voluntariness" is itself an amphibian. It purports at once to describe an internal psychic state and to characterize that state for legal purposes. Since the characterization is the very issue "to review which this Court sits," *Watts* v. *Indiana*, 338 U. S. 49, 51 (opinion of FRANKFURTER, J.), the matter of description, too, is necessarily open here. See *Lisenba* v. *California*, 314 U. S. 219, 237–238; *Ward* v. *Texas*, 316 U. S. 547, 550; *Haley* v. *Ohio*, 332 U. S. 596, 599; *Malinski* v. *New York*, 324 U. S. 401, 404, 417.

No more restricted scope of review would suffice adequately to protect federal constitutional rights. For the mental state of involuntariness upon which the due process question turns can never be affirmatively established other than circumstantially—that is, by inference; and it cannot be competent to the trier of fact to preclude our review simply by declining to draw inferences which the historical facts compel. Great weight, of course, is to be accorded to the inferences which are drawn by the state courts. In a dubious case, it is appropriate, with due regard to federal-state relations, that the state court's determination should control. But where, on the uncontested external happenings, coercive forces set in motion by state law enforcement officials are unmistakably in action; where these forces, under all the prevailing states of stress, are powerful enough to draw forth a confession; where, in fact, the confession does come forth and is claimed by the defendant to have been extorted from him; and where he has acted as a man would act who is subjected to such an extracting process—where this is all that

appears in the record—a State's judgment that the confession was voluntary cannot stand.

> ". . . [I]f force has been applied, this Court does not leave to local determination whether or not the confession was voluntary. There is torture of mind as well as body; the will is as much affected by fear as by force. And there comes a point where this Court should not be ignorant as judges of what we know as men." *Watts* v. *Indiana, supra,* at 52.

V.

We turn, then, to the uncontested historical facts as they appear in this record. Since judgment as to legal voluntariness *vel non* under the Due Process Clause is drawn from the totality of the relevant circumstances of a particular situation, a detailed account of them is unavoidable. When Culombe's confessions were offered by the prosecution and objected to as constitutionally inadmissible, the Connecticut Superior Court, pursuant to the applicable Connecticut procedure,[56] excused the jury and took evidence bearing on the issue of coercion. It later made explicit findings setting forth the facts which it credited and deemed relevant. On the basis of these findings and—insofar as they do not cover all aspects of the testimony—of evidence that is uncontradicted, the following may be taken as established.[57]

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[56] *State* v. *Buteau,* 136 Conn. 113, 116–118, 68 A. 2d 681, 682–683; *State* v. *Lorain,* 141 Conn. 694, 699–700, 109 A. 2d 504, 506–507. And see *State* v. *McCarthy,* 133 Conn. 171, 177, 49 A. 2d 594, 596–597.

[57] Portions of the following statement of facts are based upon testimony introduced into the record in the case of Taborsky, Culombe's co-defendant, who was tried jointly with Culombe. Virtually all of the evidence concerning Culombe's mental capacity was introduced, not at the time of the trial to the court of the issue of coercion relevant to the admissibility of Culombe's confessions, but at a later stage

In February 1957, the Connecticut State Police at Hartford were investigating a number of criminal incidents. In connection with certain of these (other than the Kurp's Gasoline Station killings in New Britain) it was decided on Saturday, February 23 to have two men, Arthur Culombe and Joseph Taborsky, picked up and viewed by witnesses. Lieutenant Rome, who was in charge of the investigation, delegated teams of officers to go to different addresses where the men might be located.

Shortly after 2 p. m., two officers accosted Culombe and Taborsky entering a car in front of the home of the latter's mother in Hartford. They told Taborsky that Lieutenant Rome wanted to talk to him at State Police Headquarters. They said that this was not an arrest. Taborsky stated that he was willing to go and Culombe drove him to Headquarters, following the officer's car. Leaving Taborsky, Culombe immediately drove home.

Shortly after his arrival, at about 2:30 p. m., Sergeant Paige and another officer came to Culombe's apartment to bring him back to Headquarters. They told Culombe that he was not arrested, that Lieutenant Rome wanted to talk to him. Culombe drove Sergeant Paige to Headquarters in his, Culombe's, car. From this time, Culombe was never again out of the effective control of the police.

Lieutenant Rome spoke briefly to Culombe and Taborsky and asked them if they would agree to accompany several officers to Coventry and Rocky Hill for purposes

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of the trial, in connection with Culombe's defense of insanity. Since all of this evidence was in the record at the time that the Supreme Court of Errors considered and rejected Culombe's federal claim of coercion, and since the opinion of that court does not indicate that it considered the material improperly before it as a matter of state procedure, we need not now decide what effect such a ruling would have on the scope of our review. Compare *Blackburn* v. *Alabama*, 361 U. S. 199, 209–211.

of possible identification. They consented. Sergeant Paige and two other officers took Culombe and Taborsky on this trip, which consumed about three hours, between 3 and 6 p. m. In the car, Culombe was questioned concerning his possible participation in several crimes. He was not then regarded as under arrest. During the stops at Coventry and Rocky Hill, after Culombe and Taborsky, at the officers' request, had entered a country store and a package store feigning to be customers, the two men were left for brief periods of time in the police cruiser with only Officer Griffin present. Griffin permitted them to drink the contents of a bottle of liquor which Taborsky carried.

On the return to Hartford the group stopped at a diner for dinner. Culombe and Taborsky were told to order what they wanted and ate well. At Headquarters Culombe was questioned for an hour by Paige concerning his possession of guns. He told Paige that he was a gun collector and had seven or eight guns at his home which he agreed to turn over to the police. The reason Culombe revealed this information to Paige was that the guns were registered and Culombe knew that Paige could have traced them to him in any event.

Paige and another officer took Culombe to his home, where Culombe left them in the living room and went to the bedroom. Following, they found him with two guns. They found a clip of cartridges in a drawer which he had just closed and six more guns in a small safe. They took these. Culombe and the second officer left and waited together on the street near the cruiser, the officer holding Culombe's arm, for approximately twenty minutes while Paige remained in Culombe's apartment questioning Culombe's wife.

Culombe was taken back to Headquarters. Paige talked with him for a short while, then discontinued his

investigation for the night. Rome talked with Culombe for about two hours, apparently over a three or three and a half hour period. The talk concerned the Kurp's killings and other matters. At this time Culombe and Taborsky were kept in separate rooms. Rome would question one, then the other, staying with each man until he got some bit of information that he could have checked. During respites of questioning by Rome, Culombe remained in the interrogation room.

At one point, Culombe told Rome that he wanted to see a lawyer but did not give the name of any specific lawyer. Rome replied that Culombe could have any lawyer he wanted if Culombe would tell Rome what lawyer to call. Rome knew that Culombe, an illiterate, was unable to use the telephone directory.

About 10 p. m., Rome put Culombe under arrest by virtue of a Connecticut statute permitting arrest without a warrant where the arresting officer has cause to suspect that the person arrested has committed a felony. The statute requires that persons so arrested be presented with reasonable promptness before the proper authority.[58] Culombe was taken to a cell at Headquarters sometime before midnight. However, the log book in which notation is customarily made of prisoners detained in the Headquarters cell blocks shows no entry for Culombe Saturday night.

Concerning the purpose of the questioning which began on Saturday and continued intermittently until Culombe confessed the following Wednesday, Sergeant Paige can-

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[58] Conn. Gen. Stat., 1955 Supp., § 195d, now Conn. Gen. Stat., 1958, § 6-49: "... [M]embers of the state police department ... shall arrest, without previous complaint and warrant, any person who such officer has reasonable grounds to believe has committed or is commiting a felony. Any person so arrested shall be presented with reasonable promptness before proper authority."

didly admitted that it was intended to obtain a confession if a confession was obtainable.[59] Lieutenant Pome agreed that he had kept after Culombe until he got answers which he could prove were correct.[60] There is no indication that at any time Culombe was warned of his right to keep silent. Neither Paige nor anyone in Paige's hearing cautioned Culombe concerning his constitutional rights.[61]

On Sunday, February 24, Culombe was questioned for a short time about the New Britain killings and denied that he was involved. He was also questioned by Paige and a Hartford detective about another robbery. The following morning Culombe and Taborsky were driven to New Britain and, after a substantial wait at the Detective Headquarters building, were booked for breach of the peace at New Britain Police Headquarters. Crowds lined both sides of the street where the stations were

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[59] "Q. All of the questioning of Culombe, from the time that he was taken into custody was with the object in view of obtaining a confession if a confession was obtainable, that is true, isn't it? A. That is correct." (Cross-examination of Sergeant Paige.)

[60] "Q. You kept after him, to use very conservative words? A. Yes, sir. Q. Until you received the answers that you wanted? That's right, isn't it? A. No, sir. Until we received the answers which we proved were correct. Q. The answers that you wanted were admissions of guilt? You wanted those answers? A. No, sir, not if he were not guilty. Q. You were bound and determined, weren't you, Lieutenant, to get such answers? A. No, sir. Not if he were guilty. [*Sic*] We wanted answers that we could prove were correct." (Cross-examination of Lieutenant Rome.)

[61] "Q. Were they told of their rights, Constitutional rights? A. I didn't tell them. Q. You didn't hear anyone else tell it to them? A. No, sir, not that I know of." (Cross-examination of Sergeant Paige.) It is unclear from the context of these responses whether they are meant to refer to the whole of Culombe's period of detention or only to Saturday afternoon.

located. After the booking, en route back to Hartford, the cruiser in which Culombe rode stopped at Kurp's gas station. Rome asked Culombe if he recognized the place; Culombe said that he did not. On Monday afternoon Culombe was again questioned at Headquarters concerning Kurp's as well as other matters. Lieutenant Rome questioned him for two or three hours. Sergeant Paige also questioned him for twenty minutes or half an hour, but this appears to have been concurrent with Rome's questioning. Culombe then confessed to the theft of certain canned goods and made a statement about them that was reduced to writing.

On Tuesday, February 26, Culombe was removed from his cell to be taken to the New Britain Police Court for presentation on the breach of the peace charge. At that time Rome told him that he was to be brought to court and would have an opportunity to see a lawyer. At New Britain there were again crowds on the street, but not as heavy as Monday's.

The courtroom was crowded. Once in it, Culombe and Taborsky were placed in a 'prisoners' pen, a wire-mesh, cage-like affair in the corner of the room. Photographers with flashbulbs took photographs of them in the pen. The crowd was between the pen and the judge's bench. When court convened, the two men were presented for breach of the peace. Culombe was not required to plead. He was not heard by the court. He was not taken out of the pen and brought before the bench. He was not told that he might have counsel. No one informed the judge that Culombe had previously asked to see a lawyer. At Lieutenant Rome's suggestion, the prosecuting attorney moved for a continuance. Without giving Culombe an occasion to contest the motion or participate in any way in the proceedings, the court continued the case for a week and issued a mittimus committing Culombe to

the Hartford county jail until released by due course of law.

The idea of presenting Culombe and Taborsky on charges of breach of the peace was Rome's, in collaboration with the alternate prosecutor.[62] Its purpose, Rome testified, was "To help me investigate some serious crimes in the state of Connecticut." This breach of the peace prosecution was later nolled, Culombe having never been brought back before the Police Court because "It wasn't necessary."[63] In testimony admitted in Taborsky's case, Rome conceded that he could have booked Taborsky (and hence, presumably, Culombe, since the legal proceedings against the two men were at all stages prosecuted simultaneously) on Sunday and presented him on Monday, but delayed because he, Rome, wanted more time, more interrogation. Presenting the man on Monday, although it would have been in accordance with the Connecticut statute requiring presentation with reasonable promptness, was not, Rome testified, "in accordance with good investigation."[64]

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[62] Rome admitted that he might have told someone that he was taking a chance presenting Culombe on a breach of the peace charge (there was a chance, he said, as to whether or not the police could get a conviction for breach of the peace), and that he had thanked the alternate prosecutor for coming down to Hartford from New Britain on Sunday night at his request in connection with this matter.

[63] The testimony is Lieutenant Rome's.

[64] "Q. You could have presented him on Monday, couldn't you? A. Yes, sir. Q. And you didn't do that? A. No, sir. Q. Why didn't you do it? . . . THE WITNESS: It wasn't in accordance with good investigation. Q. But it was in accordance with the Statute, wasn't it? A. Yes, sir. Q. With reasonable promptness to bring him before a proper authority? A. Reasonable promptness—Tuesday morning, yes. . . . Q. You didn't bring him before the Court on Monday? A. No, sir. Q. And with reasonable promptness, you could have, couldn't you? A. Yes, sir. Q. But you wanted to hold him and do some more grilling, didn't you? MR. BILL: Objection to the grilling. THE COURT: I will sustain it. Q. You wanted to

On leaving the Police Court, and after another stop at Kurp's, Culombe was returned to Headquarters in Hartford, where he and Taborsky were questioned by Rome and other officers during an indeterminate period that cannot have been more than about two hours. At 3 or 4 that afternoon, Rome visited the Culombe home and questioned Culombe's wife for half an hour. Rome then returned to Headquarters where, shortly thereafter, Mrs. Culombe arrived, brought in a police cruiser by a policewoman pursuant to arrangements made by Rome, but by her own request or, at the least, her own agreement. Her children were with her. She spoke briefly with Rome, who asked her if she "would go along and lay the cards on the table to her husband and see if he wouldn't confess."[85] Mrs. Culombe was then taken to a room where, in the presence of Rome and the policewoman, she talked to Culombe during a quarter of an hour. The children were not in the room. Mrs. Culombe asked Culombe if he were responsible for the New Britain killings and told him that if he were he should tell the police the truth. Rome permitted this confrontation because "it is another way of getting a confession." He admitted that he asked Mrs. Culombe to help the police and that she did help them indirectly; that he tried to use her as a means of securing her husband's confession.

After Mrs. Culombe left the room, Rome continued to question Culombe concerning certain conversations between Culombe and Taborsky. Culombe and Rome went to the door of the room and Rome called Culombe's thirteen year old daughter into the room, saying: "Honey, come in here and . . . . You tell me how they went

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interrogate him some more, didn't you? A. Yes, Mr. Burke. Q. And that is why you didn't bring him before the proper authority—you wanted some more time? A. Yes, Mr. Burke." (Cross-examination of Lieutenant Rome.)

[85] The testimony is Lieutenant Rome's.

into the bedroom and talked—Joe Taborsky and your father." There is no indication that the girl did come into the room or that she said anything.

Culombe was returned to his cell. Paige came to the cell and began to ask him questions, but Culombe was upset by the scene with his family and choked up or sobbed and told Paige that he did not want to talk. Paige discontinued the questioning and sat with Culombe for fifteen or twenty minutes until other officers came to remove Culombe to the County jail pursuant to the mittimus of the New Britain Police Court. Paige admitted that Culombe's confrontation by his wife had been an "ordeal," and Rome agreed that the prisoner was "upset." Culombe was logged in at the jail between 8 and 9 that night.

At about 10 a. m. on Wednesday, February 27, jail guards came to Culombe's cell, led him to the gates of the jail, and turned him into the custody of Sergeant Paige and several other State Police officers. Notation was made on the books of the jail that the State Police had "borrowed" Culombe.[66] Held at Headquarters until 1 p. m., Culombe was then brought to the interrogation room for questioning by Paige and Detective Murphy. Paige, who was at first alone in the room with Culombe, began by telling Culombe that Culombe had been lying to him. He suggested that, whenever Culombe did not want to answer a question, Culombe say: I don't want to answer, instead of lying. Culombe agreed, and thereupon Paige, who held a list of the crimes being investigated, went through it questioning Culombe about his participation in each. Answering each question, Culombe stated either that he had not been there or that he did

[66] The Superior Court ruled that this borrowing was illegal at Connecticut law; the Supreme Court of Errors found it unnecessary to pass on the point.

not want to talk about it. When Paige had gotten through the list, Murphy, having come in, took the list over and repeated the same questions that Culombe had answered or refused to answer for Paige. Paige left the room for a while, then re-entered. Murphy asked Culombe whether Culombe did not want to cooperate. Culombe said that he did but that it was a hard decision to make. Murphy asked whether Culombe was in fear of anyone and Culombe answered that he was in fear of Taborsky. After approximately an hour and a half, Culombe told the police that they were looking for four guns and two men and that he had not done any killing himself. Immediately, Rome, who had been listening to the interrogation over an intercommunication system, came into the room and, shortly thereafter, Detective O'Brien also arrived. Culombe agreed to show the officers where the guns would be found.[67] He requested that they travel in an unmarked car and was assured that the cruiser would carry no identifying insignia. At about 3:30 p. m., the four officers and Culombe left Headquarters for Culombe's home.

During the short ride, Rome questioned Culombe in the rear seat of the car. The other three officers sat up front. When Culombe began to give answers which Rome regarded as significant, Rome told O'Brien, who had been driving, to let Murphy take the wheel. O'Brien, who was skilled at shorthand, understood that this meant that he was to take the conversation down. He did so. In it Culombe admitted participation in a number of crimes, including the gas station holdup. He gave a detailed description of what happened at Kurp's in which he

[67] Culombe requested that Mr. Bill, the State's Attorney be told what he was doing, that he was cooperating. He said that he wanted Mr. Bill to see the statements that he made. The officers seem to have told Culombe that Mr. Bill would be notified of his cooperation but, in fact, Mr. Bill was never so notified.

related that he and Taborsky had robbed the station and that Taborsky had shot both the proprietor and the customer. Several officers testified to the content of this oral confession at the trial.

Culombe, the four officers and two police photographers entered the Culombes' project apartment. There they found Mrs. Culombe with her younger, five year old daughter. After directing Rome to a cache behind the medicine cabinet where certain weapons were concealed and to a safe compartment containing parts of a gun, Culombe spoke with his wife in the living room in the presence of at least one detective. He told her that he had decided to cleanse his conscience and make a clean breast of things; that he was afraid that Taborsky might harm her, and so he was cooperating. He also said that he wanted to save Mrs. Culombe embarrassment as far as the neighbors were concerned.[68] Leaving the apartment in the cruiser, Culombe directed the officers to a nearby swampy area where he pointed out the location in which he had disposed of one gun and part of another used at Kurp's. He led them to another swamp where a raincoat said to have been worn on the night of the holdup was recovered. After several other like stops he was taken back to Headquarters, arriving just after 6 p. m. There, in response to brief questioning in the presence of Major Remer and Commissioner Kelly, he repeated his confessions of the early afternoon.

Culombe was taken to dinner. Shortly afterwards he again saw Mrs. Culombe, who had come to Headquarters with her five year old. The child was sick. Mrs. Culombe told Culombe that the child was sick and

[68] Culombe testified that his five year old daughter, who was present in the room, appeared sick to him at that time. The officers testified that they did not notice any illness in the child and that Culombe had expressed no apprehension concerning its health, but it is undisputed that the little girl had to be taken to a hospital that night with mumps.

Culombe said that he thought that the policewoman would take it to the hospital if she were asked. At about 8 p. m., Rome, Paige, O'Brien and County Detective Matus brought Culombe to the interrogation room to reduce his several confessions to writing. Culombe made a number of statements. The manner of taking them (no doubt complicated by Culombe's illiteracy and his tendency to give rambling and non-consecutive answers) was as follows: Rome questioned Culombe; Culombe answered; Rome transposed the answer into narrative form; Culombe agreed to it; Rome dictated the phrase or sentence to O'Brien. Each completed statement was read to and signed by Culombe. The last of them related to the Kurp's holdup and to another crime committed earlier on the same day. It was started shortly before 11 p. m. and the Kurp's episode was reached at 12:30 a. m. The Kurp's statement required a half hour to compose.

At the end of this four and a half hour interview, Culombe was unshaved, his clothing a sorry sight. He was tired. He spent that night in a cell at State Police Headquarters at his own request, apparently because he was afraid of Taborsky, who was still lodged in the Hartford jail. Although the confession which he signed that night was not put in as an exhibit at the trial, it was fully laid before the jury by the receipt in evidence of another typed paper substituted for it by stipulation and whose contents, several officers testified, embodied the substance of what Culombe told them shortly after midnight Wednesday.[69]

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[69] Because the Wednesday-midnight confession also contained references to another criminal offense, it was not physically offered in evidence at the trial. Counsel for the State and for the defense stipulated that another document, a substantially verbatim copy of the Kurp's portion of the confession, might be substituted for it. This was the so-called Monday confession. It was a paper prepared by the police from the Wednesday-midnight statement which was read to, and signed by, Culombe the following Monday. Notwith-

On Thursday, February 28, Rome had Culombe brought into a room where he was talking to Taborsky. At the Lieutenant's direction, Culombe repeated his confession. Later Culombe was presented in the Superior Court on a charge of first degree murder pursuant to a bench warrant issued that morning. The presiding judge warned Culombe of his rights to keep silent and to have counsel. He asked Culombe if he wanted counsel and Culombe replied that he did. Culombe said that he did not want the public defender, that he wanted attorney McDonough but could not afford to pay for his services. The judge promised that the court would see that Culombe had the attorney of his choice at State expense. He then informed Culombe that the police wished to conduct an investigation into the charges against him and had requested an order releasing Culombe into their custody for that purpose. Asked if he was willing to cooperate, Culombe said that he was. He was told that this might mean that he would be taken to the sites of various crimes and again said that he was willing to cooperate; he wanted "to cooperate with them in any way I can." Accordingly, the court released Culombe to the State Police Commissioner for the purpose of continuing the investigation.

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standing the stipulation, the prosecution laid a foundation for the introduction as an exhibit of the Monday confession by offering testimony before the jury, first, that Culombe had made a statement Wednesday night; second, that it had been committed to writing; and third, that this writing was substantially identical to the typed paper which Culombe signed on Monday (witnesses on the stand examined and compared the documents). The Monday confession was then submitted to the jury. Under these circumstances, the effective use of the Wednesday-midnight statement was much the same as if it had gone physically to the jury; and for purposes of the constitution issue presented here we may treat the Wednesday-midnight confession as put in evidence. See *Malinski* v. *New York*, 324 U. S. 401.

At Kurp's gasoline station, Culombe re-enacted the holdup for Rome and other officers. Later that afternoon, at Headquarters, New York detectives talked to him concerning a New York killing. No further investigation relating to the Connecticut crimes was conducted that day or Friday. Culombe remained in the cell block at Headquarters, rather than at the county jail, at his own request. On Friday night he first saw Mr. McDonough, his court-appointed counsel, and also saw his wife.

Two state psychiatrists examined Culombe during two hours on Saturday, March 2. At 10 p. m. that evening, when Culombe was alone in his cell, he called out to the guard assigned to the cell block and said that he wanted to volunteer some information relating to the Kurp's holdup. The guard had not previously spoken to Culombe during his watch except to say, "Hi, Art," when he first came on duty at 6 o'clock. Culombe now narrated a new version of what had happened at Kurp's. This was generally similar to his previous statements except that in it he admitted that he himself had shot Kurpiewski. The guard telephoned this information to Lieutenant Rome and Culombe thanked him. At trial the guard related the occasion and contents of this oral confession to the jury.

Sunday morning, Rome, the guard to whom Culombe had confessed the night before, and another officer interviewed Culombe in the interrogation room. In answer to Rome's question, Culombe said that he wanted to change the story that he had previously given. He then said that he had shot Kurpiewski. Following the same procedure that had been used on Wednesday night, a detailed statement of his new version of the New Britain killings was composed and Culombe signed it. It was received in evidence at the trial. Later in the afternoon attorney McDonough spoke with Culombe and Rome at Headquarters. He told Culombe not to sign any more

papers or to talk to the police. He told Rome that he did not want the police bothering Culombe further and requested that Culombe be removed from Headquarters to the county jail. This was done.

The following day, Monday, March 4, Lieutenant Rome and Detective O'Brien visited Culombe at the jail for half an hour. Rome brought a new typed statement prepared by the police. This was a substantially verbatim transcription of the document which Culombe had signed on Wednesday, but with all references to the second, separate crime committed on December 15, 1956, deleted. Rome read the transcription to Culombe and Culombe signed it. It was admitted at trial. Rome did not notify McDonough that Culombe's signature was to be obtained because he was worried that if he did, McDonough would not permit Culombe to sign. Rome testified that he could "do better without" the attorney: Culombe "was cooperative. . . . I needed his cooperation and got it."

The man who was thus cooperative with the police, Arthur Culombe, is a thirty-three year old mental defective of the moron class with an intelligence quotient of sixty-four [70] and a mental age of nine to nine and a half years. He is wholly illiterate.[71] Expert witnesses for the State, whose appraisal of Culombe's mental condition was the most favorable adduced at trial, classified him as a "high moron" and "a rather high grade mentally defective" and testified that his reactions would not be the same as those of the chronological nine year old because his greater physical maturity and fuller background of experience give him a perspective that the nine year old would not possess. Culombe is, however, "handicapped."

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[70] As measured on the full scale Wechsler-Bellevue test. The normal intelligence quotient on this scale is ninety to one hundred and ten.

[71] Culombe can read and write only his name.

Culombe has been in mental institutions for diagnosis and treatment. He has been in trouble with the law since he was an adolescent and has been in prison at least twice in Connecticut since his successful escape from a Massachusetts training school for mental defectives. During the three years immediately preceding his arrest he has held down, and adequately performed, a freight handler's job and has supported his wife and two young children. A psychiatrist testifying for the State said that, although he is not a fearful man, Culombe is suggestible and can be intimidated.[72]

Ten days after his last confession, on March 14, 1957, Culombe was indicted for first-degree murder.

VI.

In the view we take of this case, only the Wednesday confessions need be discussed.[73] If these were coerced, Culombe's conviction, however convincingly supported by other evidence, cannot stand. *Malinski* v. *New York*, 324 U. S. 401; *Stroble* v. *California*, 343 U. S. 181; *Payne*

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[72] Again, this is the most favorable diagnosis of Culombe's capacity in this regard. The report of a clinical psychologist appointed by the court to examine Culombe both for the State and for the defense states: "In addition to being saddled with deficient mental equipment with which he must try to cope with life's problems, Mr. C. is also possessed of that character defect so frequently found in individuals of low intellectual calibre: he is enormously suggestible. Thus, lacking in the capacity for sufficient critical judgment, his manner of thinking, his pattern of living and his way of behaving can all easily be influenced by those persons closest to him. . . ."

[73] Timely question was raised at trial concerning the voluntariness of each of Culombe's Wednesday confessions, and both were found voluntary by the Connecticut court. The petition for certiorari in this Court adverts among the questions presented only to the written, Wednesday-midnight confession. However, in view of the intimate connection between the afternoon and midnight confessions, we regard the petition as fairly comprising a claim that the oral confession, as well, is unconstitutionally tainted by coercion.

v. *Arkansas*, 356 U. S. 560. On all the circumstances of this record we are compelled to conclude that these confessions were not voluntary. By their use petitioner was deprived of due process of law.

Consideration of the body of this Court's prior decisions which have found confessions coerced informs this conclusion. For although the question whether a particular criminal defendant's will has been overborne and broken is one, it deserves repetition, that must be decided on the peculiar, individual set of facts of his case, it is only by a close, relevant comparison of situations that standards which are solid and effectively enforceable—not doctrinaire or abstract—can be evolved. In approaching these decisions, we may put aside at the outset cases involving physical brutality,[74] threats of physical brutality,[75] and such convincingly terror-arousing, and otherwise unexplainable, incidents of interrogation as the removal of prisoners from jail at night for questioning in secluded places,[76] the shuttling of prisoners from jail to jail, at distances from their homes, for questioning,[77] the keeping of prisoners unclothed or standing on their feet for long periods during questioning.[78] No such obvious, crude devices appear in this record. We may put aside also cases where deprivation of sleep has been used to sap a prisoner's strength and drug him[79] or where bald disregard of his rudimentary need for food is a factor

[74] *Brown* v. *Mississippi*, 297 U. S. 278; cf. *Ward* v. *Texas*, 316 U. S. 547. And see *Pennsylvania ex rel. Herman* v. *Claudy*, 350 U. S. 116.

[75] Cf. *Malinski* v. *New York*, 324 U. S. 401. And see *Lee* v. *Mississippi*, 332 U. S. 742.

[76] *White* v. *Texas*, 310 U. S. 530; *Vernon* v. *Alabama*, 313 U. S. 547.

[77] *Ward* v. *Texas*, 316 U. S. 547.

[78] *Malinski* v. *New York*, 324 U. S. 401; *Lomax* v. *Texas*, 313 U. S. 544.

[79] *Chambers* v. *Florida*, 309 U. S. 227; *Leyra* v. *Denno*, 347 U. S. 556.

that adds to enfeeblement."[80] Culombe was not subject to wakes or starvation. We may put aside cases stamped with the overhanging threat of the lynch mob,[81] for although it is true that Culombe saw crowds of people gathered to witness his booking and presentation in New Britain, this circumstance must be accounted of small significance here. There were no mobs at Hartford where he was held securely imprisoned at State Police Headquarters.[82] Finally, we may put aside cases of gruelling, intensely unrelaxing questioning over protracted periods.[83] Culombe's most extended session prior to his first confession ran three and a half hours with substantial respites. Because all of his questioning concerned not one but several offenses, it does not present an aspect of relentless, constantly repeated probing designed to break concentrated resistance. Particularly, the sustained four and a half hour interview that preceded the Wednesday midnight confession was almost wholly taken up with matters other than Kurp's, and at that time, far from resisting, Culombe was wholly cooperating with the police.

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[80] *Payne* v. *Arkansas*, 356 U. S. 560.

[81] *Chambers* v. *Florida*, 309 U. S. 227; *Payne* v. *Arkansas*, 356 U. S. 560.

[82] Cf. *Thomas* v. *Arizona*, 356 U. S. 390.

[83] *Ashcraft* v. *Tennessee*, 322 U. S. 143 (relay questioning for more than thirty-six hours with one five minute pause); *Watts* v. *Indiana*, 338 U. S. 49 (relay questioning from 11:30 p. m. to 2:30 or 3 a. m. on the first day of detention and from 5:30 p. m. to 3 a. m. on four of the five succeeding days); *Harris* v. *South Carolina*, 338 U. S. 68 (relay questioning in a hot cubicle throughout one evening and during eleven and a half hours, with a one hour respite, the next day; then, on the day following, more than a half-dozen hours of questioning before the confession was made); *Leyra* v. *Denno*, 347 U. S. 556 (questioning throughout afternoon and evening on the first day; 10 a. m. to midnight on the second; then from 9 a. m. on the third until 8:30 a. m. on the morning of the fourth, with the questioning later resuming, after a brief recess, until Leyra confessed). Cf. *Chambers* v. *Florida*, 309 U. S. 227. But see *Lisenba* v. *California*, 314 U. S. 219.

Similarly, our decisions in *Haley* v. *Ohio*, 332 U. S. 596, and *Blackburn* v. *Alabama*, 361 U. S. 199, are not persuasive here. Haley, a fifteen year old boy, was arrested at his home and taken to a police station at midnight, where he was questioned by relays of officers until he confessed at 5 a. m. He had seen no friend or legal counsel during that time and he was subsequently held incommunicado for three days. On the totality of circumstances, the Court held his confession coerced. But Culombe was never questioned concerning one crime for five hours. Indeed, he was never questioned during five hours at a stretch. He was never questioned in the early morning hours. And while Haley, whose questioning began immediately on his arrival at the station and did not let up until he confessed, had every reason to expect that his relay interrogators intended to keep the pace up till he broke,[84] Culombe, at the time of his confessions, had been questioned on several previous days and knew that the sessions had not run more than a few hours. Moreover, Culombe, despite his mental age of nine or nine and a half, cannot be viewed as a child. Expert testimony in the record, which the Connecticut courts may have credited, precludes the application to Culombe of standards appropriate to the adolescent Haley.

Nor, without guessing, as untutored laymen and not professionally informed as judges, about the susceptibility of a mental defective to overreaching, can we apply to Culombe the standards controlling the case of the active psychotic, Blackburn. The expert evidence of hallucinations, delusional ideas and complete loss of contact with his surroundings which we found uncontradicted in the *Blackburn* record has no counterpart in Culombe's. Also, Blackburn, like Haley, confessed after

[84] See also *Spano* v *New York*, 360 U. S. 315.

a protracted questioning session—eight or nine hours, with a one-hour break, in Blackburn's case—more exhausting than any single period that Culombe underwent.

On the other hand, what must enter our judgment about Culombe's mental equipment—that he is suggestible and subject to intimidation—does not permit us to attribute to him powers of resistance comparable to those which the Court found possessed by the defendant Cooper in *Stein* v. *New York*, 346 U. S. 156, who haggled for terms with the officials to whom he confessed,[85] or the defendant James in *Lisenba* v. *California*, 314 U. S. 219, who bragged immediately before his confession that there were not enough men in the District Attorney's office to make him talk. Culombe was detained in the effective custody of the police for four nights and a substantial portion of five days before he confessed. During that time he was questioned so repeatedly, although intermittently, that he cannot but have been made to believe what the police hardly denied, that the police wanted answers and were determined to get them.[86] Other than

[85] The defendant Stein, like Cooper, was "an experienced criminal. . . . These men were not young, soft, ignorant or timid." 346 U. S., at 185. Although Culombe, too, has had considerable criminal experience, its value to him, as a school for toughening his resistance, must be duly discounted in light of his subnormal mental capacities. The testimony of a psychiatric expert for the prosecution is that "as a mental defective he is suggestible. I don't think that he is a fearful man. I think that he can be intimidated, and to use his own expression 'I don't have the Moxie that someone else has.' . . . He is suggestible and he can be intimidated. . . . I would say this—with benevolent influences, he gets along, as I said he did in the last three and a half years. With sufficiently intimidating malignant influences, he doesn't."

[86] Compare *Thomas* v. *Arizona*, 356 U. S. 390 (confession before justice of the peace at preliminary hearing on morning following afternoon of defendant's arrest; defendant warned of his rights to counsel and to plead not guilty); *Ashdown* v. *Utah*, 357 U. S. 426 (defendant

his questioners and jailers and the police officials who booked him at New Britain; he spoke to only two people: Taborsky, of whom he was afraid, and his own wife, who, by prearrangement with Lieutenant Rome, asked him to tell the police the truth.[87] The very duration of such a detention distinguishes this case from those in which we have found to be voluntary confessions given after several hours questioning or less on the day of arrest. See *Stroble* v. *California*, 343 U. S. 181; *Cicenia* v. *Lagay*, 357 U. S. 504; *Ashdown* v. *Utah*, 357 U. S. 426; cf. *Crooker* v. *California*, 357 U. S. 433. In other cases, in which we have sustained convictions resting on confessions made after prolonged detention, questioning of the defendant was sporadic, not systematic,[88] or had been discontin-

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cautioned that she can refuse to answer and can consult with counsel); *Brown* v. *Allen*, 344 U. S. 443 (defendant repeatedly warned that he can remain silent and have assistance of counsel; whenever defendant told police that he wanted to stop the conversation his request was respected and he was returned to jail).

[87] Compare *Brown* v. *Allen*, 344 U. S. 443 (defendant saw counsel and at least two friends during detention, one of whom was located by police at his request; it is true that one of these friends appears to have been cooperating with the police in certain regards, but there is no indication that she attempted to persuade the prisoner to confess); *Lyons* v. *Oklahoma*, 322 U. S. 596 (defendant's wife and family visited him in jail).

[88] In *Gallegos* v. *Nebraska*, 342 U. S. 55, the defendant was arrested in Texas by Texas authorities and, when questioned, gave a false name. He was held in custody and again questioned—after intervals first of twenty-one, then of forty-eight hours—for the purpose of establishing his identity. On the second occasion he gave his name and admitted that he had been in Nebraska. On the following day, he confessed to a crime committed in that State. He was removed to Nebraska and during his first questioning by Nebraska officers, a week after his Texas confession, he again confessed. No claim of coercion was pressed in this Court in *Gallegos*, counsel for the petitioner relying on the fact of illegally prolonged detention without

ued during a considerable period prior to confession,[89] so that we did not find, in the circumstances there presented, that police interrogators had overborne the accused.

The cases most closely comparable to the present one on their facts are *Turner* v. *Pennsylvania*, 338 U. S. 62, *Johnson* v. *Pennsylvaia*, 340 U. S. 881, and *Fikes* v. *Alabama*, 352 U. S. 191. Turner, like Culombe, was arrested without a warrant and, without having been brought

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preliminary examination and before appointment of counsel. In *Lyons* v. *Oklahoma*, 322 U. S. 596, the defendant was questioned for two hours on the day of his arrest, then remained in jail (where his family visited him) for eleven days. At the end of this period he was subjected to one prolonged, night-long interrogation session under intimidating circumstances and he confessed. This confession was not offered in evidence, having concededly been coerced. He confessed again the same evening, after he had been taken to the state penitentiary and delivered into custody of the warden; and the question raised was whether the coercive influences attending the initial confession also infected the later one. The whole pattern of factors in *Lyons* was different from that of the present case and involved wholly different considerations. Cf. *United States* v. *Bayer*, 331 U. S. 532. And see *Wilson* v. *Louisiana*, 341 U. S. 901 (defendant had been interrogated during four or five hours following his arrest and confessed; two days later he was asked to repeat his story and he again confessed, there being no indication in the record that he was questioned on the second occasion).

[89] In *Brown* v. *Allen*, 344 U. S. 443, the defendant had been arrested on Monday, twice questioned for an hour or two on that day, and questioned daily for a couple of hours on Tuesday and Wednesday. On Thursday he was confronted by witnesses and, after they had related certain information, he was asked whether he had any questions to ask them. On each occasion he was warned that he need make no statement and that he had a right to the assistance of counsel before he made any statement. He was not again interviewed until the following Saturday, when the charges against him were read to him, he was asked if he wanted to make a statement, and—without questioning—he confessed. See also note 87, *supra*.

before a magistrate,[90] was detained during four nights and about five days before he confessed. Like Culombe, also, he was questioned in daylight and evening hours, sometimes by one, sometimes by several officers. Turner saw no visitors during his detention; Culombe saw only his wife, who gave him scant support. It is true that Turner's interrogation amounted to a total of more than twenty-three hours, as against the approximately twelve and one half hours that Culombe was questioned prior to his first confession, and that Turner was questioned on two days for as many as six hours (in two sessions, on each occasion), while Culombe was never questioned for more than three hours on any one day. It is true also that Turner's questioning involved only a single crime, not several. But Turner was not a mental defective, as is Culombe, and certain significant pressures brought to bear on Culombe—the use of his family, the intimidating effect of the New Britain Police Court hearing—were absent in the *Turner* record. The court held Turner's confession coerced.

Johnson, indicted as Turner's accomplice, was detained during approximately the same period and under the same conditions as was Turner. He was questioned, however, for only somewhat more than six hours over these five days, never more than an hour and a half at a sitting. At least five officers participated, at one time or another, in the questioning. At his separate trial, both his own confession and Turner's were admitted. This Court reversed *per curiam*.[91]

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[90] Culombe's appearance before the New Britain Police Court, whether or not it legitimated his detention under Connecticut law, hardly afforded him the protection of a preliminary examination with respect to the felonies of which he was suspected. See p. 64, *infra*.

[91] Without entering into further discussion of this admittedly not unambiguous decision, one may draw from it, at the least, a reaffirmance of what was decided in *Turner*.

The facts on which the Court relied in *Fikes* were these. The defendant, a twenty-seven year old Negro with a third-grade education, apparently schizophrenic and highly suggestible, and who had previously been involved with the law on only one occasion, was apprehended by private persons in a white neighborhood in Selma, Alabama, at midnight on a Saturday. Jailed and held by the police on open charges, he was questioned for four and a half or five hours in two sessions on Sunday, and during the second of these sessions he was driven around the city to the locations of several unsolved burglaries. That day he talked to the sheriff of his home county, called to Selma at his request. On Monday he talked to his employer. After two hours of questioning in the morning he was taken to a state prison fifty-five miles from Selma and eighty miles from his home, where he was questioned during several hours in the afternoon and a short while in the evening. Thereafter, he was kept in a segregation unit at the prison, where he saw only jailers and police officers. He did not consult counsel, nor was he brought before a magistrate—despite the requiment of Alabama law that he be taken forthwith for a magistrate's hearing—prior to the time of his confession.

On Tuesday he was not questioned. On Wednesday he was questioned several hours in the afternoon and into the evening. On Thursday the questioning totaled three and a half hours in two sessions, and on that day his father, who had come to the prison to see him, was turned away. Thursday evening his first confession, consisting largely of yes-and-no answers to often leading or suggestive questions by an examiner, was taken. Saturday he was questioned again for three hours. A lawyer who came to the prison to see him was refused admission. On Sunday, however, Fikes' father was permitted to see him. The following Tuesday, after questioning of two and a

half hours, he confessed a second time. Both confessions were admitted in evidence at his trial.

This Court reversed Fikes' conviction. That reversal was on a record which showed, as does Culombe's, only intermittent interrogation and no total denial of friendly communication to the prisoner. It showed also, as does the present record, a background atmosphere of community outrage but no appreciable threat of lynch violence. Particularly significant, Fikes, like Culombe, was suspected not of only one, but of a number of offenses under investigation. Fikes, concededly, was removed to a prison located at a considerable distance from his home, as Culombe was not. This is a factor to be considered. But in *Fikes* that removal was purportedly—and not unconvincingly—justified by concern for the prisoner's safety, compare *Ward* v. *Texas*, 316 U. S. 547, and was not, as such, a predominant element in our decision.

We find that the present case is not less strong for reversal than *Fikes* v. *Alabama*. Culombe—certainly not a stronger man than Fikes—was apparently never informed of his constitutional rights, as was Fikes. Nevertheless, he expressly told the police that he wanted counsel, as Fikes did not, and his request was in effect frustrated. We are told that this was because Culombe did not know the name of any particular attorney and the police do not regard it as an appropriate practice for them to suggest attorneys' names to prisoners. However laudable this policy may be in the general run of things, it manifests an excess of police delicacy when a totally illiterate man, detained at police headquarters and suspected of many serious felonies, obviously needs a lawyer and asks for one. In any event, in every county in Connecticut there is a public defender.[92]

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[92] Conn. Gen. Stat., 1949, § 8796, now Conn. Gen. Stat., 1958, § 54-80.

Moreover, Culombe was subjected to other pressures not brought to bear on Fikes. By Lieutenant Rome's arrangement, Mrs. Culombe was permitted—indeed asked—to confront her husband and tell him to confess. Culombe's thirteen-year-old daughter was called upon in his presence to recount incriminating circumstances. This may fall short of the crude chicanery of employing persons intimate with an accused, to play on his emotions, that was involved in *Spano* v. *New York*, 360 U. S. 315. But it appears, in conjunction with all of the other circumstances, to have had precisely the effect that Rome, by his own admission, calculated: "it is another way of getting a confession." [93]

What appears in this case, then, is this. Culombe was taken by the police and held in the carefully controlled environment of police custody for more than four days before he confessed. During that time he was questioned—questioned every day about the Kurp's affair—and with the avowed intention, not merely to check his story to ascertain whether there was cause to charge him, but to obtain a confession if a confession was obtainable.

All means found fit were employed to this end. Culombe was not told that he had a right to remain silent. Although he said that he wanted a lawyer, the police

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[93] We have duly taken into account, in this regard, the finding by the Connecticut Superior Court: "Nothing was said or done by the police to Mrs. Culombe or the children to cause anxiety on the part of Culombe or to reduce his resistance or will power, or to influence him to confess." Whatever was done *to* Mrs. Culombe, it is what was done *with* her, and *with* her daughter, that is significant. To the extent that this finding can be read—as we think it cannot—to mean that no use was made of Culombe's family which in fact reduced his resistance, such a finding would lack support in evidence. *Thompson* v. *Louisville*, 362 U. S. 199. It is the uncontroverted testimony of both Rome and Paige that Culombe was upset by his wife's visit of Tuesday night, and Paige testified that Culombe thereafter choked up or sobbed.

made no attempt to give him the help he needed to get one.[94] Instead of bringing him before a magistrate with reasonable promptness, as Connecticut law requires, to be duly presented for the grave crimes of which he was in fact suspected (and for which he had been arrested under the felony-arrest statute), he was taken before the New Britain Police Court on the palpable ruse of a breach-of-the-peace charge concocted to give the police time to pursue their investigation. This device is admitted. It had a two-fold effect. First, it kept Culombe in police hands without any of the protections that a proper magistrate's hearing would have assured him. Certainly, had he been brought before it charged with murder instead of an insignificant misdemeanor, no court would have failed to warn Culombe of his rights and arrange for appointment of counsel.[95] Second, every circumstance of

[94] We do not ignore that Culombe never repeated his request for a lawyer after Saturday night. In view of its frustration at that time, this is not surprising. Lieutenant Rome told him on Tuesday morning that he would have a chance to consult counsel at court—a promise that was not made good.

It is also true that Culombe several times saw his wife, at home and at State Police Headquarters, and that he did not request that she secure an attorney for him. Under the stressing circumstances of these meetings, such reserve of thought can hardly have been expected. Culombe's own explanation for his failure to make this request of his wife is that which the circumstances, even without his testimony, compel: "I didn't ask her. I didn't even think of it, to begin with . . . . How could you, with all this pressure? You don't even know what day it is half the time."

[95] In *Rex* v. *Dick*, [1947] 2 D. L. R. 213, certain statements made by a prisoner who had been charged with vagrancy, cautioned concerning that offense (or not at all), and then questioned with the purpose of eliciting information about the murder of which she was suspected, were held inadmissible as involuntary. Robertson, C. J. O., said, at 225:

". . . It seems to me to be an abuse of the process of the criminal law to use the purely formal charge of a trifling offence upon which there is no real intention to proceed, as a cover for putting the person

the Police Court's procedure was, in itself, potentially intimidating. Culombe had been told that morning that he would be presented in a court of law and would be able to consult counsel. Instead, he was led into a crowded room, penned in a corner, and, without ever being brought before the bench or given a chance to participate in any way, his case was disposed of. Culombe had been convicted of crimes before and presumably was not ignorant of the way in which justice is regularly done. It would deny the impact of experience to believe that the impression which even his limited mind drew from this appearance before a court which did not even hear him, a court which may well have appeared a mere tool in the hands of the police, was not intimidating.

That same evening, by arrangement of the State Police, Culombe's wife and daughter appeared at Headquarters for the interview that left him sobbing in his cell. The next morning, although the mittimus of the New Britain Police Court had committed Culombe to the Hartford jail until released by due course of law, the police "borrowed" him, and later the questioning resumed. There can be no doubt of its purpose at this time. For Paige then "knew"—if he was ever to know—that Culombe was guilty.[36] Paige opened by telling Culombe to stop lying

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charged under arrest, and obtaining from that person incriminating statements, not in relation to the charge laid and made the subject of a caution, but in relation to a more serious and altogether different offence: . . . It is trifling with the long-established maxim *nemo tenetur seipsum accusare*, and has more than the mere appearance—but, in the intended result it has at times the effect—of a trial by the police *in camera* before even the charge has been laid."

[36] On the basis of the following testimony by Sergeant Paige on cross-examination, it would be difficult to regard Wednesday's questioning of Culombe as anything other than a pile-driving effort to force his conviction from his own lips:

"Q. How long did he continue to say that? A. Well, I started talking to him at one-thirty and it was just a short while afterwards

and to say instead that he did not want to answer. But when Culombe said that he did not want to answer, Detective Murphy took over and repeated the same questions that Paige had asked.

It is clear that this man's will was broken Wednesday afternoon. It is no less clear that his will was broken Wednesday night when, after several hours in a car with four policemen, two interviews with his wife and his apparently ill child, further inquiries made of him in the presence of the Police Commissioner, and a four and a

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that I took this piece of paper with all the different crimes on it and asked him these questions. Murphy came in and repeated the same thing and we were out of the barracks by half past three that afternoon.

"Q. Well, how long did he keep that up—saying he didn't want to talk about it? A. Everytime we would ask him a question and ask him if he was there and he would say he didn't want to talk about it.

"Q. How long a period of time did that take to give that answer? A. What answer?

"Q. 'I don't want to talk about it'? A. Three quarters of an hour.

"Q. And he had been doing that in addition to denying it for days up to that point, hadn't he? A. Well, that wasn't a denial, Mr. McDonough.

"Q. Well, he said he had nothing to do with them, didn't he? A. No, he said rather than lie—he said 'I don't want to talk about it,' which was telling me that he was involved in the crimes.

"Q. That was your conclusion? A. That was the conclusion between us.

"Q. He never said any such thing that you just said—that is a conclusion of yours—that is what you are assuming? A. That is what I knew.

"Q. That is what you knew he was involved in—he didn't tell you he was involved in any of those crimes? A. But I knew that was the answer without his actually saying yes.

"Q. Isn't that an assumption you drew? A. That was the knowledge I received from his acts.

"Q. That is what you drew? A. Yes."

half-hour session which left him (by police testimony) "tired," he agreed to the composition of a statement that was not even cast in his own words. We do not overlook the fact that Culombe told his wife at their apartment that he wanted to cleanse his conscience and make a clean breast of things. This item, in the total context, does not overbalance the significance of all else, particularly since it was his wife who the day before, at the request of Lieutenant Rome, had asked him to confess.[97] Neither the Wednesday-afternoon nor the Wednesday-midnight statement may be proved against Culombe, and he convicted by their use, consistently with the Constitution.

VII.

Regardful as one must be of the problems of crime-detection confronting the States, one does not reach the result here as an easy decision. In the case of such unwitnessed crimes as the Kurp's killings, the trails of detection challenge the most imaginative capacities of law enforcement officers. Often there is little else the police can do than interrogate suspects as an indispensable part of criminal investigation. But when interrogation of a prisoner is so long continued, with such a purpose, and under such circumstances, as to make the whole proceed-

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[97] We accord small weight, also, to the fact that on Thursday, when Culombe was presented in the Superior Court for murder, he told the presiding judge that he wanted to cooperate with the police and was willing to be released into their custody. Of course, if Culombe's sole claim of coercion were that he had been physically abused at State Police Headquarters, such behavior on his part might ground a reasonable inference that assertions of brutality were not credible. But the pressures of which he complains, and in which we sustain him, are of a subtler sort, and nothing in his willingness to "cooperate"—on the day after he signed a series of confessions—is inconsistent with the conclusion that those pressures broke his resistance.

ing an effective instrument for extorting an unwilling admission of guilt, due process precludes the use of the confession thus obtained. Under our accusatorial system, such an exploitation of interrogation, whatever its usefulness, is not a permissible substitute for judicial trial.

Reversed.

SUPREME COURT OF THE UNITED STATES

No. 161.—October Term, 1960.

Arthur Culombe, Petitioner, v. Connecticut. | On Writ of Certiorari to the Supreme Court of Errors of the State of Connecticut.

[June 19, 1961.]

Mr. Chief Justice Warren, concurring.

It has not been the custom of the Court, in deciding the cases which come before it, to write lenghty and abstract dissertations upon questions which are neither presented by the record nor necessary to a proper disposition of the issues raised. The opinion which announces the judgment of the Court in the instant case has departed from this custom and is in the nature of an advisory opinion, for it attempts to resolve with finality many difficult problems which are at best only tangentially involved here. The opinion was unquestionably written with the intention of clarifying these problems and of establishing a set of principles which could be easily applied in any coerced-confession situation. However, it is doubtful that such will be the result, for while three members of the Court agree to the general principles enunciated by the opinion, they construe those principles as requiring a result in this case exactly the opposite from that reached by the author of the opinion. This being true, it cannot be assumed that the lower courts and law enforcement agencies will receive better guidance from the treatise for which this case seems to have provided a vehicle. On an abstract level, I find myself in agreement with some portions of the opinion and in disagreement with other portions. However, I would prefer not to write on many of the difficult questions which the opinion discusses until

the facts of a particular case make such writing necessary. In my view, the reasons which have compelled the Court to develop the law on a case-by-case approach, to declare legal principles only in the context of specific factual situations, and to avoid expounding more than is necessary for the decision of a given case are persuasive. See *Alabama State Federation of Labor* v. *McAdory*, 325 U. S. 450, 461–462, and cases cited; *Poe* v. *Ullman*, — U. S. —. I see no reason for making an exception in this case, and I am therefore unable to join the opinion which announces the judgment of the Court. Accordingly, I join the separate concurring opinion of MR. JUSTICE BRENNAN.

SUPREME COURT OF THE UNITED STATES

No. 161.—October Term, 1960.

Arthur Culombe, Petitioner, v. Connecticut. | On Writ of Certiorari to the Supreme Court of Errors of the State of Connecticut.

[June 19, 1961.]

Mr. Justice Douglas, with whom Mr. Justice Black agrees, concurring.

I find this case a simple one. As my Brother Brennan states it is controlled by many of our decisions concerning confessions unlawfully obtained. It is also controlled by the principle some of us have urged upon the Court in several prior cases, including *Crooker* v. *California*, 357 U. S. 433, 441 (dissenting opinion); *Ashdown* v. *Utah*, 357 U. S. 426, 431 (dissenting opinion); *Cicenia* v. *LaGay*, 357 U. S. 504, 511 (dissenting opinion); *Spano* v. *New York*, 360 U. S. 315, 324 (concurring opinion).[1] That principle is that any accused—whether rich or poor—has the right to consult a lawyer before talking with the police; and if he makes the request for a lawyer and it is refused, he is denied "the assistance of counsel for his defense" guaranteed by the Sixth and Fourteenth Amendments.

The police first descended on petitioner on a Saturday afternoon. By ten that night—at the latest—he was in "custody." He asked to see an attorney. That request was callously turned aside. The testimony of Officer Rome exposes the critical issue in the case:

"Q. Up until Monday night Culombe hadn't seen a lawyer, had he? A. No, sir.

"Q. He had asked to see a lawyer, hadn't he?

[1] Cf. *In re Oliver*, 333 U. S. 257; *In re Groban*, 352 U. S. 330, 337 (dissenting opinion); *Anonymous* v. *Baker*, 360 U. S. 287, 298 (dissenting opinion).

"A. Yes, sir.

"Q. Didn't you tell him that he could see a lawyer when you got good and ready to let him see him?

"A. No, sir.

"Q. Well, when he asked to see a lawyer did he see a lawyer? A. No, sir.

"Q. Did you allow him to go to a telephone to call a lawyer? A. There was a telephone right there. He didn't have the name of an attorney to call.

"Q. Well, there are a large number of Hartford lawyers' names in the Hartford telephone directory.

"A. Yes, sir.

"Q. Did you offer him the use of the directory to find out the name of a lawyer to call?

"A. We were told that he couldn't read.

"Q. Oh, you were told that he couldn't read?

"A. Yes, sir.

"Q. Who told you that? A. He did.

"Q. Well, then, before I asked the question here in the courtroom, you had information that he couldn't read?

"A. After I talked with him.

"Q. So, therefore, a telephone directory would have been of no use to him? That is what you mean by the answer? A. If what he told me was the truth, yes, sir.

"Q. Did you tell him that he could have gotten in touch with Mr. Cosgrove, the Public Defender for this court?

"A. I make it my business never to mention any attorneys. It is up to them to mention their attorney.

"Q. This man was in the hands of the police on a serious investigation. He said that he wanted a lawyer and you did nothing to help him? A. I told him he could have a lawyer if he told me who he wanted me to call.

"Q. Did you tell him that? A. Yes, sir.

"Q. Didn't Culombe tell you on Monday night, "If that is the way you operate up here I want to get in touch with a lawyer," and you replied, "We will let you get in touch with one at the right time, not until then."

"A. No, sir.

"Q. But there was talk about a lawyer? A. Yes, sir."

Petitioner is illiterate and mentally defective—a moron or an imbecile. He spent six years in the third grade and left school at the age of sixteen. He has twice been in state institutions for the feeble-minded.

He did not see an attorney until six days after he was first arrested and after he had confessed to the police. During all this time the police questioned him until their questioning produced the confession on which his present conviction is based.

It is said that if we enforced the guarantee of counsel by allowing a person, who is arrested, to obtain legal advice before talking with the police, we "would effectively preclude police questioning" (*Crooker* v. *California, supra,* 441) and "would constrict police activities in a manner that in many cases might impair their ability to solve crimes." *Cicenia* v. *La Gay, supra,* 509. It is said that "any lawyer worth his salt will tell the suspect in no uncertain terms to make no statement to police under any circumstances." *Watts* v. *Indiana,* 338 U. S. 49, 57, 59 (concurring opinion). In other words an attorney is likely to inform his client, clearly and unequivocally, that "No person . . . shall be compelled in any criminal case to be a witness against himself," as provided in the Fifth Amendment. This is the "evil" to be feared from contact between a police suspect and his lawyer.

Interrogation of people by the police is an indispensable aspect of criminal investigations. But there is *no* right

to interrogate—by the police any more than by the courts—when the privilege against self-incrimination is invoked. Knowing this, the police have set up in its place a system of administrative detention that has no constitutional justification. It is detention *incommunicado*, a system which breeds oppression. See *Haley* v. *Ohio*, 332 U. S. 596. In the present case this illiterate petitioner was not given the modicum of protection afforded in England where he is warned that statements made may be used against him [2] and where the police are enjoined not to hammer away at a prisoner nor even to cross-examine him when he makes a voluntary statement except to clear up ambiguities. See Devlin, The Criminal Prosecution in England (1958), pp. 137–141. The flow of cases coming here shows that detention *incommunicado* is often accompanied by illegality and brutality. The arrival of an attorney is a specific against these proscribed practices.

If this accused were a son of a wealthy or prominent person, and demanded a lawyer, can there by any doubt

[2] "The form of caution expresses two things. First, there is the reminder that the accused is not obliged to talk: secondly, there is the warning that, if he does talk, what he says will be taken down in writing and may be given in evidence. From the lawyer's point of view both are statements of the obvious. Just as an accused or suspect is never obliged to talk, so the police are always at liberty to take down what an accused or suspect says and give it in evidence. The real significance of the caution is that it is, so to speak, a declaration of war. By it the police announce that they are no longer representing themselves to the man they are questioning as the neutral inquirer whom the good citizen ought to assist; they are the prosecution and are without right, legal or moral, to further help from the accused; no man, innocent or guilty, need thereafter reproach himself for keeping silent, for that is what they have just told him he may do. The caution, the charge, the arrest—any of these three things show that hostilities have begun and that the suspect has formally become the accused." Devlin, The Criminal Prosecution in England (1958), pp. 36–37.

that his request would have been heeded? But petitioner has no social status. He comes from a lowly environment. No class or family is his ally. His helplessness before the police when he is without "the guiding hand of counsel" (*Powell* v. *Alabama*, 287 U. S. 45, 69) emphasizes the lack of equal protection inherent in the dwarfed and twisted construction we have given the constitutional guarantee of the assistance of counsel. Cf. *McNeal* v. *Culver*, 365 U. S. 109, 117 (concurring opinion).

The system of police interrogation under secret detention falls heaviest on the weak and illiterate—the least articulate segments of our society. See ACLU Report, Secret Detention by the Chicago Police (1959), pp. 19–21. The indigent who languishes in jail for want of bail, cf. *Bandy* v. *United States*, 81 S. Ct. 197 (memorandum opinion), or the member of a minority group without status or power [3] is the one who suffers most when we leave the constitutional right to counsel to the discretion of the police. That right can only be protected by a broad guarantee of counsel that applies across the board to rich and poor alike. See *Reck* v. *Pate*, 366 U. S. — (concurring opinion).

I believe that the denial of petitioner's request that he be given the right of counsel was a violation of his constitutional rights. I therefore concur in the judgment of the Court reversing the conviction.

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[3] "Police officers are charged with the fair and impartial administration of the law. Yet, in many localities, there are sharp and shocking contrasts in the kind of 'law' administered to different groups of citizens. . . . [P]eople lacking in special status or 'pull' may be pushed around, roughed up, arrested on vague and even false charges, and treated generally as second class citizens. This is especially true of dwellers in slum areas with high crime rates—and even more especially of poverty-ridden Negroes and other minority groups—where police raids on tenement homes are sometimes made on slight suspicion without the benefit of search warrants." Deutsch, The Trouble with Cops (1955), p. 63.

SUPREME COURT OF THE UNITED STATES

No. 161.—October Term, 1960.

Arthur Culombe, Petitioner, *v.* Connecticut.	On Writ of Certiorari to the Supreme Court of Errors of the State of Connecticut.

[June 19, 1961.]

Mr. Justice Brennan, with whom The Chief Justice and Mr. Justice Black join, concurring in the result.

It is my view that the facts stated in Part V of the Court's opinion require the conclusion that all and not alone the Wednesday confessions were coerced from the petitioner, and that under our cases none is admissible in evidence against him. See, *e. g.*, *Fikes* v. *Alabama*, 352 U. S. 191, and cases there cited.

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No. 161.—October Term, 1960.

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[June 19, 1961.]

Mr. Justice Harlan, whom Mr. Justice Clark and Mr. Justice Whittaker join, dissenting.

I agree to what my Brother Frankfurter has written in delineation of the general principles governing police interrogation of those suspected of, or under investigation in connection with, the commission of crime, and as to the factors which should guide federal judicial review of state action in this field. I think, however, that upon this record, which contains few of the hallmarks usually found in "coerced confession" cases, such considerations find their proper reflection in affirmance of this judgment.

With due regard to the medical and other evidence as to petitioner's history and subnormal mentality, I am unable to consider that it was constitutionally impermissible for the State to conclude that petitioner's "Wednesday" confessions were the product of a deliberate choice on his part to try to ameliorate his fate by making a clean breast of things, and not the consequence of improper police activity. To me, petitioner's supplemental confession on the following Saturday night, which as depicted by the record bears all the *indicia* of spontaneity, is especially persuasive against this Court's contrary view.

I should also add that I find no constitutional infirmity in the standards used by the Connecticut courts in evaluating the voluntariness of petitioner's confessions. Cf. *Rogers* v. *Richmond*, — U. S. —.

I would affirm.